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Agenda

Meeting: **Selby and Ainsty Area Planning Committee**

Members: **Councillors John Cattanach (Chair), Bob Packham (Vice-Chair), Karl Arthur, Mike Jordan, Cliff Lunn, Steve Shaw-Wright and Arnold Warneken.**

Date: **Wednesday, 30 April 2025**

Time: **2.00 pm**

Venue: **Selby Civic Centre**

Members of the public are entitled to attend this meeting as observers for all those items taken in open session. Please contact the named democratic services officer supporting this committee, details at the foot of the first page of the agenda, if you have any queries.

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The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: speaker representing the applicant, speaker representing the objectors, parish council representative and local Division councillor. Each speaker has a maximum of five minutes to put their case. If you wish to register to speak through this scheme, then please notify Dawn Drury, Democratic Services Officer by midday on Friday 25 April 2025.

This meeting is being held as an in-person meeting that is being broadcasted and recorded and will be available to view via the following link Agenda for Selby and Ainsty Area Planning Committee on Wednesday, 30 April 2025, 2.00 pm | North Yorkshire Council. Please contact the named democratic services officer supporting this committee if you would like to find out more.

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Business

1. **Apologies for Absence**

2. **Declarations of Interests**

All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.

3. **ZG2024/0697/OUTM - Land off Colton Lane, Appleton Roebuck** **(Pages 3 - 72)**
Report of the Assistant Director – Planning – Community Development Services.

4. **ZG2023/0551/OUTM - Land to the north of Leeds Road, Thorpe Willoughby, Selby** **(Pages 73 - 160)**
Report of the Assistant Director – Planning – Community Development Services.

5. **ZG2023/0358/OUTM - Land south of Leeds Road, Thorpe Willoughby, Selby** **(Pages 161 - 260)**
Report of the Assistant Director – Planning – Community Development Services.

6. **ZG2023/1017/OUTM - Land at Field Lane, Thorpe Willoughby, Selby** **(Pages 261 - 370)**
Report of the Assistant Director – Planning – Community Development Services.

7. **2021/0550/FULM - Land off Cliffe Road, Osgodby** **(Pages 371 - 406)**
Report of the Assistant Director – Planning – Community Development Services.

8. **ZG2022/1444/FULM - Land Off Friars Meadow, Selby** **(Pages 407 - 436)**
Report of the Assistant Director – Planning – Community Development Services.

9. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.

10. **Date of Next Meeting**
Thursday, 22 May 2025 at 2.00pm.

Members are reminded that in order to expedite business at the meeting and enable Officers to adapt their presentations to address areas causing difficulty, they are encouraged to contact Officers prior to the meeting with questions on technical issues in reports.

Agenda Contact Officer:

Dawn Drury, Democratic Services Officer
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Email: dawn.drury@northyorks.gov.uk or democraticservices.central@northyorks.gov.uk

Tuesday, 22 April 2025

North Yorkshire Council

Community Development Services

Selby & Ainsty Area Planning Committee

30TH APRIL 2025

ZG2024/0697/OUTM - OUTLINE APPLICATION TO INCLUDE ACCESS (ALL OTHER MATTERS RESERVED) FOR THE ERECTION OF UP TO 32 NO. DWELLINGS, AMENITY SPACE, ACCESS ROAD AND FOOTWAYS, DRAINAGE INFRASTRUCTURE, AND OTHER ASSOCIATED WORKS ON LAND AT COLTON LANE, APPLETON ROEBUCK

BY
BAYLIS AND BAYLIS LTD

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the Report

1.1. To determine an outline planning application including access, with all other matters reserved for the erection of up to 32 no. dwellings, amenity space, access road and footways, drainage infrastructure, and other associated works on land at Colton Lane, Appleton Roebuck.

1.2. This application is reported to Committee as the site lies in the open countryside within the Selby District Local Plan and was a proposed allocation in the Emerging Local Plan under Allocation AROE-K. Due to the formal decision to discontinue the progression of the emerging Selby Local Plan, the draft allocations and policies no longer hold any status as part of an emerging development plan. Consequently, they would not be able to have weight attributed to them on the basis of being part of that process. However, weight can still be accorded to the evidence base of an abandoned plan in circumstances where it is relevant.

1.3. This application is reported to Committee because the Head of Development Management considers this application to raise significant planning issues such that it is in the public interest for the application to be considered by Committee.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to prior completion of a Section 106 agreement to secure the matters detailed below and the conditions detailed in Section 12.

2.1. This is an application for outline planning permission the erection of up to 32 no. dwellings, amenity space, access road and footways, drainage infrastructure, and

other associated works. Means of access from Colton Lane is being sought, with all other matters being reserved i.e. siting, appearance and landscaping. The site is within the countryside to the west of the development limit of a Designated Service Village, Appleton Roebuck. The site area is 1.39 hectares and is currently arable land or amenity land associated with the adjacent property known as “Hillcrest”, which is in the ownership of the applicant. The applicant also owns the land to the north of the redline boundary. The frontage to Colton Lane is comprised of a low hedgerow with a number of trees in the highways verge, and a gated entrance serving the site at the eastern end. The remainder of the boundaries are formed by low hedgerows.

2.2. The Parameters Plan (ref 04/Rev A) and the Preliminary Highways Access Plan (ref 2024362/DPL/SK002 Rev A) show the main access is to be taken from Colton Lane. Further details of the preliminary highways improvements are shown on the submitted drawing and these include a new 2m footway, the relocation of the village sign, relocation of the 30 mph speed limit sign and also to confirm the achievable visibility from the proposed access point.

2.3. The Parameters Plan identifies a landscape buffer along Colton Lane, an area of tree planting amenity space provision and shows a landscape edge for additional planting adjacent to what would become the new edge of settlement. Full details of these arrangements would be part of the reserved matters stage. It also indicates that public open space will be defined during the reserved matters application and further guidance is set out within the design and access statement and how such space would be provided.

2.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

2.5. The site is outside the development limits of the settlement in the Selby Local Plan (2005).

2.6. However, the Local Planning Authority cannot demonstrate a five-year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the

tests in NPPF paragraph 11d. The proposal complies with paragraph 11(d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11(d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

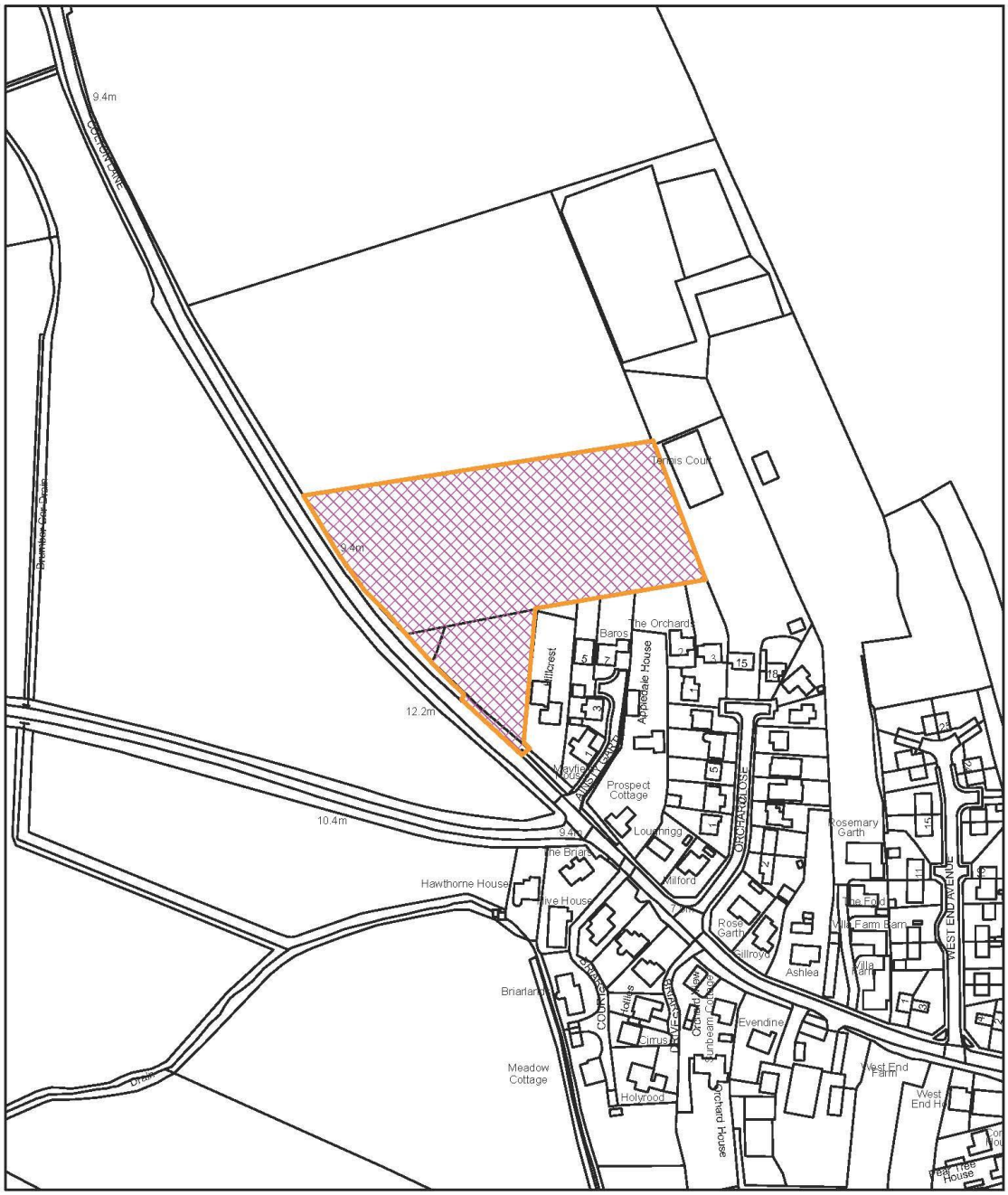
2.7. Adverse impacts include the modest scale of loss of agricultural land which would result in minor harm to the agricultural economy in the area as well as food self-sufficiency; moderate adverse localised landscape and visual effects; and conflict with the development plan.

2.8. Neutral matters include the lack of conflict with mineral policies; the indicative housing density is appropriate; the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site is not contaminated; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; and education, healthcare and bin contributions are secured to ensure no detriment is caused.

2.9. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a notable contribution to needed market and affordable housing (great weight is given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems and those that want to self or custom build their own home; the scheme will deliver a cycle link to the Route 66; biodiversity net gain and ecological enhancements are secured; provision of open space that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

2.10. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior completion of a s106 agreement.

ZG2024/0697/OUTM
Land Off Colton Lane, Appleton Roebuck



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3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:- ZG2024/0697/OUTM | Outline application to include access (all other matters reserved) for the erection of up to 32 no. dwellings, amenity space, access road and footways, drainage infrastructure, and other associated works | Land Off Colton Lane Appleton Roebuck

3.2. The application was not the subject of any formal pre application discussions prior to the submission of the application.

3.3. Additional information has been provided during the course of this application to address issues concerning highways, ecology, archaeology, ground conditions affordable housing and the justification for the scheme in the context of the NPPF (December 2024).

3.4. The relevant planning history for the site is as follows.

Application 2015/0448/OUT

3.5. Application 2015/0448/OUT which was an application for "Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 no. dwellings with associated infrastructure and open space provision on land adjacent to Hillcrest House. This application was initially considered at the Planning Committee on 9 September 2015 and following debate on the application the Committee resolved to defer the application to obtain further advice on the proposed reasons for acting contrary to the Planning Officers recommendation given that they did not wish to support the application and its was recommended for approval by Officers. The application then returned to Planning Committee on the 7th October 2015, where again Officers recommended approval of the application subject to Section 106 Agreement to secure the provision of 40% of the units as Affordable Housing (at a mix of 70% rent and 30% intermediate), an education contribution, waste and recycling contribution and the provision of on-site recreational open space alongside a series of conditions. The application was supported by Committee, the S106 was signed and a decision notice was issued on the 1st December 2015.

3.6. Subsequent to the issuing of the Decision Notice papers were lodged with the High Court seeking a Judicial Review of the Decision by Sam Smiths Old Brewery Tadcaster (SSOBT).

3.7. In challenging the decision SSOBT noted 6 (No.) grounds which they considered that "the Council erred in law, or failed to take into account relevant considerations or took into account irrelevant ones, or acted irrationally, in granting planning permission for the development for any or all of the reasons" summarized below:

i) The Council conspicuously failed to take account of a highly material consideration and / or were seriously misguided, in respect of the existence of a five year housing supply at the time of its consideration of the planning application on the 7th October 2015, and more

importantly prior to the issue of its decision notice on the 1st December 2015.

ii) The Council were misguided on the conflict with the Neighbourhood Plan could be treated as of no material weight in the absence of a five year housing land supply, whereas such a supply in fact existed at the time the Council issued its decision notice.

iii) The Council acted unlawfully as a result of the Council Officers failing to refer the application back to the Council's Planning Committee before issuing the decision notice on 1 December 2015.

iv) The Council acted unlawfully in granting planning permission in any event because it proceeded on the basis that there was an absence of a five year housing supply, when in fact the Council's own documents demonstrate that there was a supply at the 10 October 2015 (if not before).

v) In making its decision the Council failed to acquaint itself with all relevant material to enable a lawful decision to be taken, because it failed to examine whether or not there was in fact a five year supply at the relevant time and proceeded on the basis of an outdated assumption.

vi) The Council acted irrationally in granting planning permission as a result of the above.

3.8. Following discussions between the Council's Solicitor and the Solicitor acting from the Brewery a Consent Order was issued by the Court which quashed the Decision.

3.9. The final Consent Order notes that the Defendant (the Council), accepts:

> "that the emergence of the five year housing land supply evidenced in the Councils annual monitoring report dated 25th November 2015 was capable of being a material consideration in the determination of this planning application in this instance from the 6th November 2015. The contents of the report should have been reported back to and considered by Planning Committee prior to the issue of permission pursuant to the resolution to grant permission subject to the completion of a S106 agreement on the 7th October 2015".

3.10. As such the Consent was quashed and the application was then considered again by the Planning Committee (on the 7th September 2016) in the context of the Council having a 5 year housing land supply where the application was recommended for "Refusal" which was supported by Members, and a subsequent Decision Notice was issued on 7th September 2016 stating the following reasons for refusal:

01 The proposal would be located within the countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to

achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for 28 dwellings, when added to the 27 dwellings that have been built or approved in Appleton Roebuck since the start of the Plan Period in April 2011 would substantially exceeds the minimum growth options of between 17 - 23 dwellings for Appleton Roebuck identified by research in connection various growth options for the Designated Service Villages as part of the development of PLAN Selby in July / August 2015. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Appleton Roebuck and conflict with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan.

02 The proposal would be located within the open countryside and approval of this application for housing is in conflict with the recently adopted Core Strategy's spatial development strategy for this Designated Service Villages in Selby District Core Strategy Policies SP2 (A) (a) and SP5 (A) and (E)

3.11. The Applicants did not appeal this decision by the Council.

Application 2016/1322/OUTM

3.12. A further application was made under Reference 2016/1322/OUTM, which was consented by the Council on the 27th February 2017 following Committee consideration on the 8th February 2017. At this stage the Council did not have a 5 year housing land supply.

3.13. This decision was however subject of challenge by Sam Smith's Old Brewery Tadcaster (SSOBT) via the High Court:

3.14. In challenging the decision SSOBT noted that they considered that "…the Council manifestly erred in granting the planning permission…", in granting consent under 2016/1322/OUTM on the basis that:

i) The Council had failed to take into account a number of fundamental material considerations relevant to the decision and
ii) It had acted inconsistently with another decision being taken by an officer on behalf of the Council shortly beforehand in which development on an adjoining site was refused.

3.15. The noted grounds of challenge can be summarised as follows:

1. The Council assumed an absence of a five year housing supply based on an unexplained concession in October 2016 at a Public Inquiry, when the Council was in fact required to assess the position as at February 2017;

2. The Council failed to take account of the Neighbourhood Plan as a material consideration which seeks to limit the scale/extent of development for the settlement;

3. The Council failed to take into account/address prematurity to PLAN Selby and / or reason for previous rejection of development of this type;

4. The Council failed to take into account the Conservation Area given the role of the historic character of the village and the scale of development set as appropriate in the emerging Neighbourhood Plan;

5. The Council did not consider the impact on the landscape setting;

6. There was inconsistency between Officer decisions on adjoining sites, despite the position noted in the Officer Update Report to the February 2017 Committee; and

7. It represents an irrational decision.

3.16. Following discussions between the Council's Solicitor and the Solicitor acting on behalf of the Brewery a Consent Order was issued by the Court which quashed the Decision.

3.17. The final Consent Order notes that the Defendant (the Council), accepts:

> "Having considered the draft Grounds the Defendant (the Council) accepts that under the provision of the Planning Practice Guidance, the Neighbourhood Plan reached the end of the Local Planning Authority publicity stage after the resolution to grant but before the decision was issued. Accordingly, the Council could have considered whether the application was premature to the Neighbourhood Plan as an emerging part of the development plan. That represented a material consideration which should have been addressed before the decision was issued. On this basis the Council will consent to an Order quashing the decision dated 27th February 2017".

3.18. The Consent Order also notes that "…without prejudice to the Claimants (SSOBT) other grounds of challenge set out in its claim which set out what the Claimants considers to be other serious errors in the Council's decisions, the Claimant recognises that the Defendants (the Council) concession on the ground identified and its consequential consent to the quashing of the planning permission leads to the relief that the Claimant is seeking to claim. This therefore renders it otiose for the Court to determine the Claimants other grounds of challenge. In the interest of saving Court time and costs the Claimant has therefore filed a reduced amount of material in support of its claim for Judicial Review and seeks the approach of this Consent Order by the Court in light of the Defendant's concession as recorded above".

3.19. As such the Consent Order quashed the Consent on the 4 May 2017 and therefore the application had to be reconsidered by the Council.

3.20. The application was then prepared for consideration by the Councils Planning Committee on the 10th January 2018 with a recommendation for "Refusal" in the context of the Council again having a 5 year Housing Land Supply, on the following grounds:

01 The proposal would be located within the countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for 28 dwellings, when added to the 33 dwellings that have been built or approved in Appleton Roebuck since the start of the Plan Period to June 2017 would substantially exceeds the minimum growth options of between 17 – 23 dwellings for Appleton Roebuck identified by research in connection various growth options for the Designated Service Villages as part of the development of PLAN Selby in July / August 2015. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Appleton Roebuck and conflict with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan and Policy H1 of the Appleton Roebuck and Acaster Selby Neighbourhood Plan 2017- 2027.

i) The proposal would be located within the open countryside and approval of this application for housing is in conflict with the recently adopted Core Strategy's spatial development strategy for this Designated Service Villages in Selby District Core Strategy Policies SP2 (A) (a) and SP5 (A) and (E) and Policy H1 of the Appleton Roebuck and Acaster Selby Neighbourhood Plan 2017- 2027.

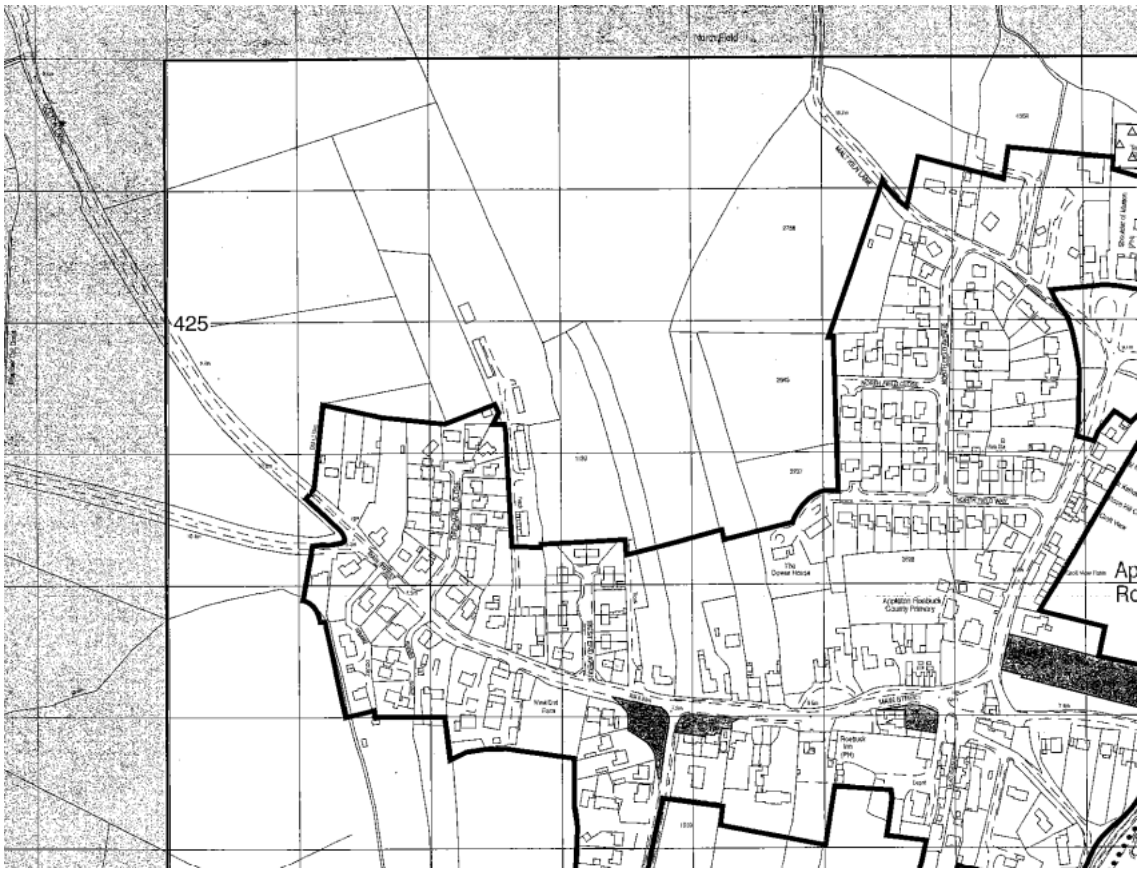
ii) The site is outside the development limits of Appleton Roebuck and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

3.21. However, the decision was not issued as the Applicants withdrew the application subsequent to the publication of the Officers Report.

4.0 Site and Surroundings

4.1. The site area is 1.39 hectares, and is currently arable land or amenity land associated with the adjacent property known as "Hillcrest", which is in the ownership of the applicant. The site is a greenfield site under the definition in the NPPF (2024).

4.2. In terms of the Selby District Local Plan, the application site is in the open countryside.



Selby District Local Plan 2025

4.3. The site slightly slopes and has a frontage to Colton Lane which comprises of a low hedgerow with a number of trees in the highways verge, there is a gated entrance serving the site at the eastern end of the frontage and the remainder of the boundaries are formed by low hedgerows.

4.4. The applicant also owns the land to the north of the red line boundary.

4.5. Appleton Roebuck is a designated service village as identified by the settlement hierarchy of the Selby District Core Strategy where there is scope for additional residential growth to support rural sustainability. Appleton Roebuck is therefore regarded as being sustainably located with the latest assessment of the services in the settlement undertaken by the Council as part of the evidence base for the Selby Emerging Local Plan confirming that the settlement has a village hall, a primary school, nursery and pre-school provision, a public house, a petrol station, two places of worship, and one sports facility. The village also has a bus route serving the village which has 5 journeys per day and operates Monday to Saturday inclusive providing connections to York.

4.6. The site is currently accessed via a field gate from Colton Lane or from the garden area to Hillcrest. The site lies within Flood Zone 1, within the Brumber Car Drain Green Corridor and within an area of low coal risk. The site is also within 100m of the

Appleton Roebuck Conservation Area, within the consultation zone for Leeds East Airport and Sherburn Aero Club and also within the impact zone for SSSI (FID 99),

5.0 Description of Proposal

5.1. This is an application for outline planning permission for up to 32 no. dwellings, amenity space, access road and footways, drainage infrastructure, and other associated works Means of access from Colton Lane is being sought, with all other matters being reserved i.e. siting, appearance, landscaping and scale. The internal access arrangements would be defined via the reserved matters stage.

5.2. The Parameters Plan (ref 04/Rev A) and the Preliminary Highways Access Plan (ref 2024362/DPL/SK002 Rev A) show the main access is to be taken from Colton Lane. Further details of the preliminary highway's improvements are shown on the submitted drawing and these include a new 2m footway the relocation of the village sign, relocation of the 30mph speed limit and also confirm the achievable visibility from the proposed access point. The Parameters Plan identifies a landscape buffer along Colton Lane, an area of tree planting amenity space provision and shows a landscape edge for additional planting adjacent to what would become the new edge of settlement. Full details of these arrangements would be part of the reserved matters stage. The parameters plan also indicates that public open space will be defined during the reserved matters application and further guidance is set out within the Design and Access Statement and how such space would be provided.

5.3. The scheme is proposed to deliver 20% affordable housing as part of the scheme, so if 32 units were delivered through the Reserved Matters submission this would equate to 6 units. Of the affordable housing, 25% would be First Homes (so of the 25% this would be 1 unit if 32 dwellings are built) and the remaining 5 units should be Affordable Units split affordable rent / social rent accommodation (70%) and intermediate tenure (30%). In addition, one self build plot would be provided and 6% of the units (so no more than 2 dwellings) would be built to M4(3) Building Regulations standard.

5.4. The Design and Access statement explains that the scheme is for up 32 units, which would be "locally designed homes", and includes an illustrative masterplan which shows an area amenity space in the central part of the site, enhanced landscape planting to the frontage to Colton Lane and an area of planting to the eastern boundary. Access is shown to be taken from Colton Lane with footpath improvements along Colton Lane towards the village centre. The Design and Access Statement also considers the scheme's relationship to the settlement in terms of townscape analysis sustainability and an assessment of the site. There is also a description of the proposed design response which informs the parameters plan.

6.0 PLANNING POLICY AND GUIDANCE

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in

accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

6.2. The Adopted Development Plan for this site is:

- Selby District Core Strategy Local Plan (adopted 22nd October 2013)
- Those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
- Minerals and Waste Joint Plan (adopted 16 February 2022)
- Appleton Roebuck and Acaster Selby Neighborhood Plan (2017-2027).

6.3. In terms of the Appleton Roebuck & Acaster Selby Neighbourhood Plan then this covers the period 2017 to 2027 and was made (adopted) on the 7th December 2017. The NPPF at Paragraph 14 notes that

> "in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
> a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
>
> b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70)

6.4. In terms of the assessment of this application given that Paragraph 11D is enacted as a result Council's position on housing land supply, then the weight to be afforded to the Neighbourhood Plan has to be considered in the context of Paragraph 14 and Paragraphs 69-70 which sets the context of defining the housing land supply figure for the area and ensuring that there is a sufficient supply of housing land.

Emerging Development Plan

6.5. The Emerging Development Plan for this site is:

- Selby District Council Local Plan publication version 2024 (Reg 19)

6.6. On 17th January 2025, a report was taken to the Selby and Ainsty Area Committee and Development Plans Committee recommending that work on the emerging Selby District Council Local Plan is ceased. This recommendation was taken to North Yorkshire Council's Executive on 4 February and then North Yorkshire Council's Full Council on 26 February where it was resolved that work on this plan will now cease. Due to the formal decision to discontinue the progression of the emerging Selby Local Plan, the draft allocations and policies no longer hold any status as part of an emerging development plan. Consequently, they would not be able to have

weight attributed to them on the basis of being part of that process. Having regard to the above, no weight is to be applied to the Selby District Council Local Plan publication version 2024 (Reg 19), but some weight may be able to be given to the evidence base.

- The North Yorkshire Local Plan

6.7. No weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

6.8. Relevant guidance for this application is:
- National Planning Policy Framework 2023
- National Planning Practice Guidance
- National Design Guide 2021
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007
- Appleton Roebuck Village Design Statement, February 2012
- Strategic Housing Market Assessment, February 2019
- Strategic Housing Land Availability Assessment, September 2022

7.0 Consultation Responses

7.1. The following consultation responses have been received and have been summarised below:

7.2. **Appleton Roebuck & Acaster Selby Parish Council** (dated 9th August 2024 and 18th December 2025) : objected in summary to the application on the following grounds:

Principle of Development
- Non-compliance with local and national planning policies, detrimental impact on the local area, and unresolved technical issues
- The scheme does not comply with the Appleton Roebuck and Acaster Selby Neighbourhood Development Plan (NDP), which remains in force until 2027. The NDP supports sustainable infill developments, not large-scale extensions to the village boundary. The application site is outside the permitted development area, located in open countryside, and within a defined sensitive area for development.
- The Selby Local Plan, which initially rejected this site for development, remains subject to numerous objections and challenges, and thus, its provisions should not override the standing NDP
- The proposed development's location in open countryside and outside the village's development limits further undermines the principles of sustainable development as outlined in the National Planning Policy Framework (NPPF).
- The proposed development fails to comply with the local Neighbourhood Development Plan and the National Planning Policy Framework. It would result in unsustainable growth, significant environmental and infrastructure issues, and a detrimental impact on the village's character and setting.

Planning History

- A previous application for 28 dwellings on this site was quashed by the High Court in 2015 following a judicial review. The court's decision highlighted that such developments would represent an unacceptable level of growth, adding to the 27 dwellings already built or approved, exceeding the identified sustainable growth level of 17-23 dwellings. Since this judicial review, no substantial changes have occurred in the village or the development proposals that would alter the previous decision
- The Planning Statement inaccurately claims that planning permission for the site has been granted twice. However, these permissions were overturned following legal challenges, rendering any previous consents invalid.
- The application does not acknowledge these legal precedents and fails to provide new justification that address the reasons for previous refusals. Several previous planning applications (2015/0448/OUT, 2016/0201/OUT, 2020/1115/FULL, and 2020/0174/FULL) were refused on similar grounds of non-compliance with local policies, unsustainability, and environmental impact. These decisions, made even when the Council lacked a five-year land supply, should carry significant weight in the current applications consideration.

Infrastructure Capacity and Access to Services

- Appleton Roebuck is classified as the least sustainable village in the Selby area due to its poor bus service, lack of shops, and absence of medical services. The proposed development would increase the number of dwellings in the village by over 9%, exacerbating the existing strain on local infrastructure.
- The local school is at capacity and cannot accommodate additional children.
- The closure of local amenities such as the garage and pub further reduces the village's sustainability score.
- The bus service is inadequate, leading to multiple-car households which are not supported by the current road and parking infrastructure.
- The NPPF emphasises the need for developments to be sustainably located and to minimize the need for travel by car, which this proposal does not achieve.

Drainage and Flood Risk

- The proposed development site already experiences significant flooding issues due to runoff and leaching from the agricultural land, which floods Main Street during extreme rain events.
- The existing sewerage system is susceptible to overflow during heavy rain, causing backflow into homes and creating sanitary hazards, particularly outside the school.
- The application does not adequately address these critical drainage and sewage issues, and any development on this site would likely exacerbate these problems, contrary to the requirements of sustainable development.
- Yorkshire Water had raised concerns about drainage capacity on another application within the village but had not commented on this one. They should be consulted on this application and involved in determining the technical resolution to drainage considerations

Character of the Area and Landscape

- The Landscape and Visual Impact Assessment (LVIA) submitted with the application fails to accurately reflect the high visibility of the site from the village's approach, particularly from higher ground and the National Rail line.
- The proposed development would significantly alter the open and rural character of the village, leading to a visually intrusive and dense urban extension. The LVIA's conclusion that the development would have a neutral impact is incorrect and does not align with the village's current sparse and rural aesthetic.
- While the development site is not within the Conservation Area, the application fails to consider the indirect impacts on the area's setting and character.
- The proposed development's layout suggests a high-density scheme that does not reflect the rural and low-density character of the village. The inclusion of a 10-meter watercourse along Colton Lane is also uncharacteristic and unnecessary, further highlighting the inappropriate nature of the proposal.
  The proposed development would alter the village's approach and entry, significantly affecting the conservation area's overall visual and aesthetic appeal

<u>Public Engagement</u>

- The application was submitted without any meaningful public consultation or engagement, a significant oversight given the scale and impact of the proposed development.
- The timing of the submission during the summer holidays further limited local residents' ability to review and comment on the proposal. The lack of engagement contravenes the principles of community involvement outlined in the NPPF and undermines the legitimacy of the application process. This lack of engagement illegally violates the Town and Country Planning Act 1990, which mandates full consultation on developments affecting the village’s size or character.

<u>Highways</u>

- The proposed access arrangements have not been thoroughly assessed for safety and suitability. The development would likely increase traffic and parking pressures on Colton Lane and surrounding roads, exacerbating existing issues with vehicle speed and congestion.
- Any approval should be contingent on a detailed assessment and mitigation of these impacts, including the extension of the public highway footpath, relocation of road safety markings, and installation of speed awareness signs.
- Parish have noted concerns that the introduction of further signage for highways purposes would impact on the visual character of the area

<u>Contributions and Provision of Open Space</u>

- While the provision of a play area is a positive aspect of the proposal, its size and scope should reflect the needs of the entire village, not just the development. This amenity should be secured through a Section 106 agreement to ensure its delivery.
- Additionally, the proposed 20% affordable housing should be provided on-site rather than through off-site contributions, to genuinely benefit the local community and address housing needs.
- Parish have noted concerns that the development might be acceptable if financial contributions were provided for healthcare.

Other matters

- The application contains several discrepancies and errors, notably in the redline boundary, which does not fully encompass all associated highways works, repositioning of signage, or visibility splays. This inaccuracy materially affects the application and its validity.
- The Parish have noted that speakers at their meetings have questioned the findings of the archaeological investigations submitted with the application
- The Parish have noted that speakers at their meetings have requested the application is considered by Planning Committee

7.3. **Bolton Percy, Colton and Steeton Parish Council** (8th August 2024): object to the application in support of Appleton Roebuck & Acaster Selby Parish Council and in particular on the issue of foul drainage. Noting that there are issues with the pumping station and Yorkshire Water are refusing to accept that the system needs an upgrade, and they are simply paying compensation and covering clean up costs.
Also note that

- The proposed development is outside the development limits of this conservation village and challenges the Appleton Roebuck and Acaster Selby Village Development Plan which is current until 2027.
- the addition of 32 dwellings, densely built on the field outside the village, would fundamentally alter the approach into the village and completely alter the present landscape between the villages.
- At the moment the area ear-marked is agricultural land and surrounded by more agricultural land used for crops and livestock - 32 dwellings would stand out and be very visible as you travel towards the village, in effect creating a peninsular of houses surrounded by agricultural land.
- Though our Parish Council is not directly consulted on this planning application, it will clearly have an adverse effect on the system which services our villages and we would ask the members of the Planning Committee to consider our concerns and objections when making a decision on this matter.

7.4. **Active Travel England:** advised that they do not wish to comment on the application given it is under 150 units and less than 5 hectares.

7.5. **NYC Highways** (Comments 15th August 2024 and 28th October 2024)**:** advised in initial comments that

- Acknowledge the proposal to relocate the 30mph signboard and associated road markings. It is crucial that the new location ensures clear visibility of the sign from a minimum distance of 90 meters. Additionally, the relocation of rumble strips must be carefully considered to ensure they are positioned at an optimal location for traffic calming.
- The proposed 2m footway connecting the development to the village is appreciated, as it enhances pedestrian safety. Considering the applicant's mention of cycling as a viable and attractive mode of transport for future residents, we would like to explore options to connect the development site with National Cycle Route 66, which is approximately 90 meters from the proposed site access. A designated cycle lane would significantly improve access and encourage sustainable transportation.
- Request a detailed visibility plan that includes splays in line with the latest ATC results, which indicate speeds of 36.2mph southbound and 40.7mph northbound. Based on the ATC results, the required visibility is as follows:
    - Southbound: 91 meters
    - Northbound: 123 meters

While the relocation of the sign has been proposed, it is essential to confirm that the required visibility can be achieved under the current conditions. Furthermore, could the applicant confirm if the hedges on the site boundary are within their control? If so, it may be necessary to lower the hedge height to maintain adequate visibility for both the access point to the proposed site and the relocated signboard.

- Advised that internal roads will need to be constructed to NYC Standards
- Parking should comply with the standards and provide visitor parking

Further comments from NYC Highways were received after additional information was received from the Applicants in response, at this stage the NYC Highways Officers advised that they had no objections to the scheme subject to a series of conditions:

- MHC-01 Detailed Plans of Road and Footway Layout
- MHC-02 Construction of Adoptable Roads and Footways
- MHC-03 New and altered Private Access or Verge Crossing at Land Off, Colton Lane, Appleton Roebuck
- MHC-05 Visibility Splays at Land Off, Colton Lane, Appleton Roebuck referenced to Preliminary Highways Access Plan - 2024362/DPL/SK002 Rev A)
- MHC-09 Details of Access, Turning and Parking at Land Off, Colton Lane, Appleton Roebuck
- MHC-15B Construction Phase Management Plan- Small sites

Proposed informatives relate to MHi-A Other Permissions required from the Local Highway Authority and MHi-B Detailed Plans of Road and Footway Layouts _(MHC-01)

7.6. **Local Lead Flood Authority** (Comments 6th August 2024 and 16th October 2024)**:** advised in initial comments that having considered the Flood Risk Assessment prepared by the Applicants then the LLFA Officer requested additional information by way of ground investigation information to demonstrate whether infiltration of surface water is viable or not. The applicants provided additional information in the form of "Intrusive Investigation Letter, WML Consulting, Reference 11448G/TPB/SCS, Dated 10th September 2024." The LLFA then confirmed that this had provided sufficient information to demonstrate that infiltration will not be viable at the site, and as such they have advised that the submitted documents with the application demonstrate a reasonable approach to the management of surface water on the site.

7.7. **Yorkshire Water** (comments 30th July 2024): have advised as follows:
Waste Water – requested use of condition to require development to be undertaken in accordance with the submitted Flood Risk Assessment.
Foul Water - will discharge to public 150mm diameter foul water sewer in Colton Lane. Surface Water - note that sub-soil conditions do not support the use of soakaways and a watercourse exists near to the site where surface water will discharge to. Advises that the "The developer should note that further restrictions on surface water disposal from the site may be imposed by other parties. The developer is strongly advised to seek advice/comments from the Environment Agency/Land Drainage Authority/Internal Drainage Board with regard to surface water disposal from the site. The landowners consent will be required for the construction of a new outfall structure. As surface water from the site is not proposed to discharge to the public sewer network, no assessment of the capacity of the public sewers to receive surface water has been undertaken. Should the surface water disposal proposals change, further consultation with Yorkshire Water will be required.
Yorkshire Water were contacted in March 2025 to seek clarification on their position, given their comments on an application at Malt Kiln Lane Appleton Roebuck (ZG2024/1063/OUT) where they lodged an objection in November 2024 – so

subsequent to their comments on this application. They have confirmed that noted that "the site is allocated in the Selby Local Plan ref: AROE-K with an indicative yield of 28 dwellings. YWS look to support sustainable development, and makes provision for housing sites within Local Planning Authorities development plans, and will promote an investigation into network capacity and potential re-enforcement where it is suspected the existing network does not have adequate capacity to accommodate the anticipated flows generated by the allocated sites within the local plan. This is why development ZG2024/0697/OUTM has not been objected to".

7.8. **Ainsty Internal Drainage Board**: provided comments on the application on the 10th July 2024, which can be summarised as follows:

- The Board notes that there appears to be an ordinary watercourse on part of the western boundary of the site, adjoining Colton Lane. This is not maintained by the Board but by the riparian owner. It is vital that this watercourse remains free flowing and is maintained accordingly. The Board is unclear if this watercourse is a "Highway Ditch" rather than a usual ordinary watercourse. In any event, the Board would generally request a minimum of 3 metres from the bank top of the watercourse, on both sides, to remain clear of any new buildings, structures, attenuation systems, fencing and planting. This is to ensure that there is sufficient space for future maintenance but to also prevent pressure on the embankments which could in turn cause subsidence/movement. The Board would ask that the future Proposed Site Plan shows the exact location of the watercourse and then a 3 metre easement noted around the watercourse, on both sides.
- They have also in their comments provided advice on the approach to the design of the drainage system for the site and the consents that maybe required from them for any discharge.
- In this context they have requested conditions requiring submission and agreement of the scheme for surface and foul water drainage and an easement for 3 metres adjacent to the top of the embankment of the watercourse alongside informatives in relation to watercourse maintenance responsibilities and the need for consent for discharge.

7.9. **NYC Environmental Health:** provided comments on the application on the 19th July 2024, and noted that given the location of the site adjacent to other dwellings there is a need for condition requiring:

- prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.
- There shall be no piling on the site until a schedule of works identifying those plots affected and setting out mitigation measures to protect residents from noise and vibration has been submitted to and approved in writing by the local planning authority. The piling shall thereafter be carried out in accordance with he approved scheme.

The stated reason for both conditions is to protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

7.10. **NYC Conservation -** provided comments on the application on the 22nd July 2024, and advised that "The site lies to the northern approach to the village and bounds a cul de sac development known as Ainsty Garth. There are other cul de sacs and

modern forms of development adjacent to the conservation area these include Orchard Close, Briars Drive and Briars Court. The traditional core of the village which forms the basis of the conservation area is one of made up of individual buildings ribboning north and west along main street. It is noted within the design and access statement that some materials and design details have been submitted key features of the village have been acknowledged but also include modern standard house types. The traditional features of the village and design of the older properties should be included in this scheme should it move to reserved matters stage. A standard house type development on the gateway to the village should be avoided."

7.11. **NYC Tree Officer -** provided comments on the application on the 19th August 2024 and noted no objection to the application given that there is no direct impact on retained trees. A condition is recommended requiring a landscaping scheme and informatives setting out British Standards relating to tree works and implementation of landscaping schemes.

7.12. **NYC Landscape -** (Comments 26th August 2024 and 8h October 2024): Initial comments on the application confirmed that the recommendations for the landscape mitigation and principles steering the layout of the development as summarised in the landscape strategy (plan four) contained within the landscape visual assessment are supported.

Comments on the illustrative scheme note:

- Support for the setback from Colton Road the treed landscape buffer
- Support for the attenuation basin is in a good location because it relates to existing hedgerows and sets the development back from Colton Road and allows some additional screening greenery to contribute to the setting of the development and the village edge
- Note that any attenuation basin should not form part of the POS
- Note that the POS is in a good location for the development and meet the requirements the development and contribute to a sense of place
- Set out a recommendation that the reinforcement the northern boundary which is is valuable part of visual mitigation however gardens should be long enough to support and sustain trees along this boundary so as to not result in a conflict such as shade and in this context the alliterative properties appear too close to the northern boundary
- Advise that consideration should also be given to the garden boundary type the boundary planting should remain under the management of the current landowner so that it can be managed as one hedge from the field side
- Advise that a post and rail fence in front of the hedge to mark the boundary would be appropriate
- Advise that the segments of tree planting along the eastern boundary and the southern corner would assist in providing a setting/backdrop for the proposed development and provide views of trees within the street and separation from adjacent properties
- Advised that the use of swales are welcomed
- Advised that trees should contribute to the primary street scene and should not be located within the Swale this would need to be accommodated within the layout at the reserved matters stage

Comments have also been provided on the parameters plan and advised that the following items of landscape infrastructure to be included in the Parameters Plan, as reflected in the illustrative masterplan:

- A minimum width of landscape buffer from the centre line of the hedge along the frontage with Colton Road.
- Location and quantity of central POS.

- Locations of segments of tree planting in the east and south of the site, in accordance with draft policy AROE-K.
- Location of surface water attenuation (excluding pumping station).
- Enhanced northern boundary.

In this context the Landscape Officer confirmed support of the findings of the Landscape and Visual Appraisal (LVA) and the accompanying Landscape Strategy and visual mitigation and enhancement recommendations. Advised that

a) views of the site are limited due to gently undulating topography, and the dense, well-managed roadside hedges and field boundaries.
b) The independent quality and location of Hillcrest and the mature trees in the grounds of this property and the land to the east north east of the site, nestle the village into its agricultural context (both arable and pastoral). It is important to replicate a similar treed, soft, organic edge. The proposed landscape mitigation is appropriate and also critical.

And in this context advised that the "the parameters plan should include the recommendations within the Landscape Strategy, namely the set back and green frontage to Colton Road, a reinforced green boundary around the perimeter of the site, in particular along the northern boundary, a central open space, and the surface water attenuation in the northwest corner."

Following receipt of Parameters Plan Revision A dated 13/09/2024 the Landscape Officer confirmed that there were no further comments and that "the revised parameters plan now includes the principles of the landscape infrastructure, with the precise extents to be determined during the reserved matters stage" and therefore there were no further comments.

7.13. **NYC Archaeology** (25th November 2024) - noted that the applicant provided information in relation to archaeological geographic physical survey and trial trenching. Due to the largely negative results of the trial trenching there were no objections to the proposal.

7.14. **NYC Ecology: (**Comments 11TH July 2024 and 1st October 2024): initial comments advised that the Ecological Appraisal confirms that the proposed development will have no impacts upon statutory and non-statutory designated sites. The Ecological Appraisal and BNG assessment sets out that the dominant habitats on site are arable cropland and modified grassland which are common and widespread in the local area. Habitats of greater value include hedgerows, scattered trees and a small area of scrub. There is no presence of irreplaceable habitat on or adjacent to the site. The Ecologist also noted that they were satisfied with the level of survey and assessment work undertaken. It is considered that provided the avoidance and mitigation measures set out within the Ecological Assessment are adhered to there will be no significant negative impacts.

BNG – advised that there is currently no post development metric completed and as such the proposals currently indicate a loss of all habitats on site, resulting in a loss of 77%. Whilst the final BNG assessment does not need to be provided until submission of the Biodiversity Gain Plan via the statutory deemed condition, there is a need at the application stage to demonstrate that the principles of the BNG hierarchy have been applied and using the outline landscape masterplan to populate the post development section of the metric to demonstrate to the authority whether the required 10% net gain can be achieved on site, or whether the applicant intends to make use of offsite options. It is important to provide this information prior to determination to allow the authority to determine what planning conditions and legal agreements will be required to secure the implementation of BNG. Implementation does not form part of the statutory deemed condition. As such it was recommended

that a completed post development metric which would be indicative at this stage, with the final metric and gain plan being provided at the detailed design stage. The applicants then provided additional information in relation to BNG and the Ecologist advised that

> "the net gain assessment and associated metric has now been provided for the post development proposals. Whilst this does demonstrate that the site is capable of achieving the required 10% BNG on site, there is no detailed habitat plan against which to check the details. In particular it is important that any habitat features included within domestic curtilages is not double counted. Habitats included within domestic curtilages should be categorised as 'vegetated gardens' and inclusion of additional habitats referenced within the report as 'turfed lawn' and urban trees, should not also be counted within these spatial areas. It is not possible from the information provided to confirm whether this has taken place, however this fine level of detail will be required as part of the Biodiversity Gain Plan (BGP)."

In this context the Ecologist concluded there were no further comments at this stage and "The deemed condition should be applied to any permission granted along with an appropriate implementation condition. Habitats outside of vegetated gardens should be secured by condition for a minimum of 30 years to include a management plan and monitoring schedule to allow the authority to report on BNG outcomes to Defra".

7.15. **NYC Affordable Housing** (9th December 2024) – comments on the scheme note that

- The scheme proposes 20% affordable housing in line with the allocation in the Emerging Local Plan, but is not in line with Policy SP9 of the Local Plan and no viability has been provided to reduce provision from 40%.
- Advise that the tenure split and the type of housing being sought will be based on the Council's latest evidence on local need. This comes in the form of the HEDNA (2020) which advises that, as per NPPF 2019 – a minimum of 10% of the homes should be for affordable home ownership, but there is no evidence to increase this amount. Furthermore, current secondary data illustrates an estimated affordable need of 8 properties per annum for the village of Appleton Roebuck. In terms of rented accommodation, both social and affordable rent are required, with a need for social rent more prominent.
- The HEDNA also provides local need information relating to bedroom size. For rented accommodation, preference is towards 1 and 2 bedroom accommodation, with some 3 and few 4 bedroom requirements. For intermediate tenures, preference is 2 and 3 bedroom housing.
- First Homes should account for 25% of the affordable housing in line with the NPPF (2023)
- All affordable housing units adhere to National Space standards
- The emerging local plan asks all new homes are built to M4 (2) 'accessible and adaptable' standard, and that on developments over 10 dwellings in size, 5% of new homes are built to M4 (3) 'wheelchair user' standard, having regard to identified need. No details around accessibility have been given on this scheme currently
- Affordable housing units should not be grouped or clustered together. Similarly, the Council expects affordable housing to be built to the same high standard of design and amenity as market housing. Affordable housing units on developments should be of a similar quality to the open market housing and should be visually indistinguishable
- Would ask that the developer makes 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

- Would ask that the Section 106 agreement contains a clause to ensure the properties are allocated to households with a local connection to the parishes of Appleton Roebuck, Colton, Steeton, Bolton Percy, Ryther Cum Ossendyke and Acaster in the first instance as a local letting Criteria
- Scheme is within a Designated Protected Area. The Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009 (Statutory Instrument 2009/2097) therefore requires landlords to include in any Shared Ownership lease, for houses within a protected area, provisions to either:
    - Restrict the leaseholder's equity share to a maximum of 80%; or
    - Ensure that once the leaseholder has acquired 100% share of the house, it is sold back to the landlord when it becomes available for resale.
- The applicants have since confirmed that they would provide the following Affordable Housing mix
    - 20% of units to be affordable units (so up to 6 units if 32 dwellings are built)
    - 25% of which would be First Homes (so of the 20% this would be 1 unit if 32 dwellings are built)
    - Remaining 5 units would be Affordable Units split affordable rent / social rent accommodation (70%) and intermediate tenure (30%).

7.16. **Contaminated Land Consultant -** (19th July 2024) – advised that the Phase 1 report shows that the site was used as agricultural fields since the earliest mapping, dated 1851. Localised past industrial development in the wider surrounding area includes former gravel pits (145m south-west & 750m west), a smithy (300m south-east), and a brick pond (475m south). Historic maps suggest potential infilling of the nearest gravel pit had been completed by 1891, therefore it is considered unlikely to provide a significant source of ground gas. In addition, the Consultant noted that the "report considers that the land contamination risks at the site range from very low to low. If made ground is encountered on the site, the report recommends a site investigation is carried out to provide information on the physical and chemical ground conditions. The report also recommends that excavated topsoil should be tested prior to reuse in gardens and landscaped areas". As such it was concluded that the Phase 1 report provides a good overview of the site's history, its setting, and its potential to be affected by contamination. No significant potential contaminant sources have been identified, so no further investigation or remediation work is required and as such a condition on unexpected contamination was requested.

7.17. **Designing Out Crime Officer -** (17th July 2024) – acknowledged that this application is Outline and only seeks to set out the principle of a development at the proposed site location and more detailed proposals would be submitted in the event of this application being granted. Therefore, the comments made in this report have been taken this into consideration and would hope that the suggestions made are reflected in any future design and layout submitted by the applicant.
Advise is contained in the response on

- Management Plan required for Public Open Spaces .
- Play area should be suitably enclosed.
- Avoid creation of ambiguous space.
- Ensure provision of appropriate rear boundary and sub-divisional treatments.
- Ensure service footpaths providing access to rear gardens of terraced properties are secure
- Each dwelling should be fitted with suitable security lighting.

- Details of appropriate street lighting required.
- Ensure trees are not located where they could create climbing aids into rear gardens.

7.18. **North Yorkshire Fire and Rescue** – (19th July 2024) – confirmed no objection or observations on the application and that they will comment at the Building regulations stage.

7.19. **NHS Humber and North Yorkshire ICB** – (30th July 2024) – seek a contribution of £37,818 to capital cost calculation of additional primary healthcare services arising from the development proposal given the scale of development with payment being requested before the development commences via a Section 106 planning obligation.

7.20. **NYC Public Rights of Way** (14th August 2024) – confirmed there are no impacts on PROW from the development.

7.21. **NYC Education / Children and Young Peoples Service** (1st April 2025) – seeking a contribution of £151,920 for Primary Education (Appleton Roebuck Primary School). No contributions are requested for secondary, special school or early years provision.

7.22. **NYC Waste and Recycling Officer –** (4th August 2024) provided general advice to inform any future layout and confirmed that as the application is for more than 4 properties, the developer will be required to purchase the waste and recycling containers for this development.

7.23. Responses were not received from Environment Agency to the consultations sent by the Council when the application was first received. However, given the scale of the development and its location within Flood Zone 1 a consultation response would not be expected.

Local Representations

7.24. The application was advertised via site notice and in the Yorkshire Post dated 17th July 2024 and via sites notices posted on the 17th July 2024.

7.25. Comments on the application have been received from 38 individuals. A summary of the comments is provided below, however, please see website for full comments.

Principle of Development

- The site does not therefore represent 'Previously Developed Land' as defined in the National Planning Policy Framework ("NPPF").
- Appleton Roebuck is totally unsuitable and one of the least sustainable locations within Selby District for any development. It has been wrongly categorized as a Designated Village and given Tier 2 status
- Residents should have had the opportunity in front of an inspector to raise concerns about the allocation of this site and this application is premature without this opportunity been in place
- No weight should be afforded to the applicant submission of November 2024 or the conclusions on assessment within it in relation to this emerging Selby Local Plan that the Applicant prepared at the request of Officers

- The applicant has failed to demonstrate how the proposed development will benefit the village
- There is no local support for this application and it is an attempt to overthrow the approved and adopted Appleton Roebuck neighbourhood development plan and it goes against the wishes of the residents
- There are ample other sites within Selby District with better infrastructure where development would cause less issue and where the existing infrastructure can support further development.
- This site lies outside the designated development boundary of Appleton Roebuck. Developing in this area contradicts the strategic planning policies intended to control and direct growth sustainably within the village confines.
- The principle of developing the site for open market housing remains in direct conflict with the development plan and no comfort for the applicant can be drawn from the Inspectors conclusion at the core strategy stage in terms of the settlements identification is a Designated Service Village (DSV).
- The application proposal therefore doesn't represent any of the special circumstances set out within the guidance and as such is directly contrary to the policies within NPPF and development plan policy SP1, SP2, SP6 and SP15 and policy H1 of the NDP.
- The proposal will have a negative and harmful effect on the local economy, through the provision of dwellings which, by virtue of their location, style and size will reduce the ability of the rural workers to access facilities and services in the local area, as well as prevent the continued use or development of the land to the benefit of the local agricultural economy
- The scheme is in direct conflict with the Policy H1 of the NDP which provides a specific and evidenced limit to the size of scheme considered to be an appropriate scale for the settlement.
- The Core Strategy Inspector recognised that Appleton Roebuck represented the least sustainable village to be included as a DSV, and only agreed to its identification on the basis that the services that it provides may serve the wider hinterland in the future, but that the settlement did not currently provide a range of services and facilities which could reasonably be relied upon to serve housing growth
- The site is located in open countryside, which should be preserved to maintain its rural character and natural landscape. The proposed development would represent an urban encroachment into this rural area
- This site is not in accordance with the Appleton Roebuck and Acaster Selby Neighbourhood Development Plan which was adopted by Selby District Council in 2017. Which states "it is important to prevent urban sprawl and to protect the open character and rural nature of the environment and villages".
- No consideration has been given to the Appleton Roebuck and Acaster Selby Neighbourhood Development Plan that was approved and adopted by Selby District Council in 2017, in particular to Policy H1: NEW HOUSING DEVELOPMENT DESIGN AND SCALE. Policy H1 states that new housing developments should be small in scale (under 10 units (preference made for 5 units or fewer)) and not overwhelm their surroundings. This proposed development fails to comply with this policy on both counts.

- This site has been the subject of several previous applications which have resulted in refusal. Including a refusal by the High Court at judicial review. On the previous 2021 draft Local Plan this site was assessed again and rejected. It is disappointing, with this background, that recently the site mysteriously reappeared on the emerging Local Plan apparently without fair and proper consultation. The recent draft Local Plan should therefore not be considered in this application until it has, eventually, completed the due process.
- The site should not have been identified as a potential allocation and Emerging Selby Local Plan and is premature (comments made pre the NPPF in December 2024 and also pre cessation of work on the ELP in February 2025)
- There is no pressing need for additional housing in Appleton Roebuck and many properties have been on the market for significant periods of time
- Brownfield sites should be prioritised head of development of greenfield sites
- There is a healthy, local and council wide, position in relation to the delivery of new housing development against targets, and that as a result the 'tilted balance' set out within paragraph 11 of NPPF has not been engaged. (noted in letter submitted in September 2024)

<u>Highways and Access</u>

- The proposed access to Colton Road will give a limited view of traffic approaching from the right hand side as vehicles leave the development which combined with standing water has the potential to cause vehicle collisions
- Access to and from it is at a blind location by the brow of a hill, representing a very dangerous road traffic hazard.
- There is no pedestrian access to and from the site either to the village nor in particular to available public transport.
- The proposed relocation of the 30 mph signs by 13 m will not make the new access point any safer for vehicle cyclists or pedestrians and it will in fact obscure the siting of vehicles leaving the site
- There will also be a need for the village sign to be relocated this has not been considered by highways
- The proposal to provide a cycle lane as required by the local Highway authority has been has not been fully assessed
- It is impractical to install a cycle lane without major highway widening works and improvements therefore further detailed planning is required before the access point can be approved
- Ownership of the hedgerows needs to be clarified these are key to the ability to achieve highways visibility
- It has not been clarified as to whether waste collection vehicles will be able to access the highway in a forward gear after visiting the site
- The proposed access is unsuitable for the construction stage and will be unsafe for heavy plant deliveries low loaders and multiple HGV deliveries
- This is a small village with narrow roads, and in places narrow or no pavements. The substantial increase in HGV and other large vehicles will not

only cause significant safety issues given this is a small village with a relatively significant number of children.

- Since the closure of the old Bishopthorpe railway bridge to heavy lorries the traffic through the village has increased considerably, especially overnight where there is an increased noise nuisance. This road into York is severely due maintenance with the sides crumbling and cars and the extra lorries driving round the bends between Appleton and Bishopthorpe in the middle of the road as a result.
- The village and main road from the A64 already has serious and impending issues with HGV traffic. The alternative access to the village has weight restrictions on the bridge in Bishopthorpe

Loss of Agricultural Land

- We are all living through a cost of living crisis, due to the cost of imported foods, it seems ridiculous that we are being asked to sacrifice valuable productive arable agricultural land for an inappropriate housing scheme.
- The proposed site is on two parcels of greenbelt land currently set as arable farmland and will compromise the rural environment in which our village is situated.
- The applicant has made no reasonable attempt at justifying the loss of the agricultural land, and the contribution it does or could make to the rural economy. Whilst the applicant has submitted an Agricultural Land Classification Assessment for the site, this is neither applied nor analysed to provide the information required to assess the proposal against development plan policy.
- There is no explanation as to why the site, which is noted as Grade 2 within the available Ministry of Agriculture mapping, has been assessed as Grade 3b in the report. Clearly, this difference of opinion is critical to assessing the proposal against the definition of the 'Best and Most Versatile Agricultural Land, contained within Annex 2 of NPPF, and the application of Core Strategy policy SP18: Protecting and Enhancing the Environment, sub clause 9. This part of the adopted policy requires that the Council must steer development to areas of least agricultural quality.
- No effort however to reflect the advice within paragraph 180(b) of NPPF in assessing the economic and other benefits of the land in its current form, or the relative quality of the land compared to other areas of land in the District. The guidance is clear that, Councils should seek the development of less valuable agricultural land before that of a higher quality. The Council therefore needs to reach a balanced assessment of the relative value and quality of the site in question in its current form, before a determination of the application can take place.

Infrastructure

- The village is totally unsuitable for further large scale development of the size and mix of housing proposed and will lead to loss of amenity and further deterioration of the already failing and inadequate infrastructure and public services for village residents.

- Health Services (GP practices and dentistry) are not available locally and cannot be accessed by public transport and these will be overwhelmed by further development in the village
- Bus services are extremely poor, therefore, its virtually a car per person over 17.
- The Sustainability Assessment previously made by Selby and the information in the developer's submissions are outdated in the range of public services is limited - there is one pub open for limited hours, no shop, the Post Office facility no longer visits and the Petrol Station is now closed.
- Accessing basic, essential and leisure services, in Tadcaster, Bishopthorpe, Copmanthorpe and York, means residents are mainly reliant on cars.
- There are frequent outages and power cuts and the extra burden for heat pumps and electric car charging ports for a further

Flood Risk and Drainage

- The drainage ditch that runs parallel to Colton Road on the approach to the proposed access to the development can be subject to standing water up to 3 to 4 inches deep increased run-off from the development site
- Development of the site will impact on the water collecting on Colton Road
- The pond area suggested does not appear to be sufficient countermeasure
- Sewage overflow from existing drainage networks regularly occurs in the village
- Yorkshire Water regularly have to unblock existing foul sewage infrastructure and there are regular occurrences of drains collapsing
- Local infrastructure, namely electricity and drainage services, are inadequate and regularly fail and are overwhelmed by the demand from existing residences and Yorkshire Water's Pumping Station.
- Surface water discharge will add to an already overloaded system or materially affect adjoining agricultural land
- Yorkshire Water have objected to a smaller development in the village (ref ZG2024/1063/OUT) for six dwellings and have noted that the file servers in Appleton Roebuck are at capacity - this has not been raised on this application and the developer has not outlined how this will be addressed
- The scale of development is excessive and when considering the additional burden of adding approximately 17% to the housing footprint of the village without any proposed mitigation for the already overloaded sewage system is beyond reckless.

Ecology and Protected Species

- There are bats using and resident in and around the field on Colton Road, any building work will disrupt their habitat. They are not only regularly seen flying over the field most nights, but a protected species
- There will be significant habitat loss which is confirmed in the submitted BNG matrix
- This site currently provides important habitat for wildlife, it is often frequented by ground nesting birds (Skylark, and occasionally Curlew & Lapwing), it is a hunting ground for Barn Owl and it supports all manner of flora and fauna.

- Red kites and other birds of prey utilise the site
- Hedgehogs will be impacted by the development

Archaeology

- The application should be refused on the basis of archaeological features that are present on the site in the field evaluation report is flawed as it sets out the site has planning permission this is not the case

Character of the Area

- From a review of the application documents, it appears that the scheme is intended to be viewed as an extension of Appleton Roebuck, rather than a separate estate or development.
- Additional lighting at the new junction will have a huge detrimental effect in terms of visual impact on the entrance to the village and increase light push pollution
- The introduction of any houses beyond the existing boundary of the village will naturally sit above the ridgeline and be a clear and obvious eyesore, damaging the views of the countryside and detrimental to the appearance of the village
- Selby DC previous assessment of the site, when in 2021 the DC stated that the development of the site would have a "Potential negative impacts on the character and form of the settlement". I would question what has changed
- Appleton Roebuck is a conservation village, this "gateway development" will accordingly adversely affect the village and it's environs.
- This development proposes an 'estate' of 32 houses, which represents a high density of properties in a relatively compact space. This is uncharacteristic of the existing layout of Appleton Roebuck conservation village, which is composed of small groupings of houses in lower concentrations.
- , the proposal looks to extend the village limits, providing a more linear edge to the village. Currently, the village edge allows Colton Lane to run central into the village, rather than linear and one-sided. The proposal will fundamentally alter the approach into the village and impact on the character of the village in an unsustainable manner.
- The layout submitted with the application does not reflect the character of the village in terms of story heights configurations and the scale and massing that is characteristic in the village.
- The application fails to address and consider the impact the development would have upon the Conservation Area.

Landscape Impact

- The submitted landscape visual impact assessment fails to recognise visitors on approaching the village and there will be impacts on the landscape of the sites developed and the impact would not be neutral.

Residential Amenity

- The proposed site of development is at such an angle that we would be severely overlooked from the top rooms of the new development, greatly impairing the privacy of adjacent occupiers

- Given the scale of the development, there is a concern for the potential for neighbouring properties to be overlooked, including registered childcare provision
- this development will result in increasing noise in the village and reduction in residential amenity

Sustainability and Travel

- The Planning Statement makes no meaningful attempt to identify the likely travel patterns that will result from residents seeking to access services and facilities in the wider area, nor investigate how new residents of the proposal will be able to make these journeys via sustainable modes of transport. Similarly, there is no attempt to explain how these residents will travel to schools, employment opportunities and complete their day-to-day activities in a sustainable manner, or if this is even reasonably possible.
- It is clear that the primary mode of accessing any facilities that are present in the surrounding area is via the private car
- Proposed cycling and pedestrian upgrades will only secure the same level of accessibility as existing dwellings in the settlement and represent achievement of minimum requirements - the developer is offering nothing in terms of developing facilities or infrastructure associated with the settlement and as such these cannot be considered material considerations and support of the conflict with policy.

Other matters

- The documents submitted with the application are misleading and give a misleading impression of how close the development is to existing properties and the impact on them
- The documents are also misleading in terms the local development plan and pick out elements that support them and lead leave others out
- There has been no public engagement by the developer prior to the submission of the application
- The play area and affordable housing should be secured on site and via section 106 agreement not through off-site contributions
- The layout submitted with the application shows the ability to access the next field ready for more housing

8.0 Environment Impact Assessment (EIA)

8.1. The development proposed does not fall within Schedule 1 or 2 of The Environmental Impact Assessment Regulations 2017 (as amended). The LPA recorded a screening opinion on the 17th July 2024 confirming the proposal is not EIA development. As such, an Environmental Statement was not required. Nothing has changed since the screening decision and it remains effective for the purposes of this report.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are as follows:

- Principle of development
- Loss of agricultural land

- Housing density and mix
- Character and appearance including Landscape, Conservation Area and Materials
- Flood risk and drainage
- Climate change
- Access, transport and highway safety
- Impact upon nature conservation and protected species
- Affordable housing
- Recreational open space
- Contaminated land and ground conditions
- Noise and air pollution
- Residential amenity
- Archaeology
- Minerals
- Developer contributions
- Other matters arising from Consultations

10.0 ASSESSMENT

Principle of development

10.1. Policy SP1 of the Selby District Core Strategy Local Plan 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 the NPPF. The Council does not have the required five year housing land supply and therefore Paragraph 11d of the NPPF is engaged and the “tilted balance” applies.

10.2. Policy SP2 of the CS sets out the long-term spatial hierarchy for the distribution of future development within the District, focusing development firstly in the Principal Town of Selby, Local Service Centres, Designated Service Villages and smaller villages.

10.3. The Core Strategy designates Appleton Roebuck as a Designated Service Village (DSV). Core Strategy paragraph 4.12 states “villages which are considered capable of accommodating additional limited growth have been identified as ‘Designated Service Villages’”. With regard to Designated Service Villages (DSVs), paragraph 4.27 states

> “The overriding strategy of concentrating growth in Selby and to a lesser extent in the Local Service Centres means that there is less scope for continued growth in villages on the scale previously experienced. However, there is insufficient capacity to absorb all future growth in the three towns without compromising environmental and sustainability objectives. Limited further growth in those villages which have a good range of local services (as identified above) is considered appropriate”.

10.4. The site lies outside the Development Limits for the settlement as defined in the Selby District Local Plan (2005).

10.5. Policy SP2A(c) of the Core Strategy says: *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*

10.6. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy. Substantial weight to the conflict with the development plan (and the related conflict with the intentions of the Framework) should be given in this case. The proposal should therefore be refused unless material considerations indicate otherwise.

10.7. Policies SP10 Rural Housing Exception Sites and SP13 Scale and Distribution of Economic Growth do not apply to the proposal nor are there other special circumstances.

Housing Supply Requirements

10.8. The NPPF is a material consideration. In this context, currently there is a lack of a five-year housing land supply in the Selby legacy area, due to the increase in housing requirements arising from the NPPF (December 2024) and as such applications are required to make decisions in accordance with Paragraph 11 d of the NPPF (December 2024).

10.9. Paragraph 11d states that in terms of decision-making and the presumption in favour of sustainable development:

> d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
>
> > i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
> >
> > ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination"

10.10. Footnote 7 notes that the "assets of particular importance" are : habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change". These do not apply to the application site.

10.11. In terms of the Appleton Roebuck & Acaster Selby Neighbourhood Plan then this covers the period 2017 to 2027 and was made (adopted) on the 7th December 2017. Paragraph 14 of the NPPF notes that

> "in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
>
> a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
>
> b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70)

10.12. In terms of the assessment of this application, given that Paragraph 11d is enacted as a result Council's position on housing land supply, then at "up to 32" units the scheme does conflict with Policy H1 of the Neighbourhood Plan which seeks to limit development on any site to less than 10 units. However, the Neighbourhood Plan is in excess of 5 years old (adopted 2017) and it does not include any allocations to meet any defined need for the settlement. As such, the adverse impact of allowing development that conflicts with the Neighbourhood Plan is not significantly outweighed by the benefit of enhancing the housing supply figure subject to all other technical matters being addressed and the scheme being acceptable in terms of the impact on the character and appearance of the area.

10.13. In light of the above, the site does not have any "assets of particular importance", and it is considered that the scheme accords with the NPPF when taken as a whole. The development is in a sustainable location on the edge of a Designated Service Village and it is making effective use of the land in terms of the proposed density of development which is also delivering affordable housing provision. In this context it is considered under Paragraph 11d of the NPPF that the principle of development on the site should be supported.

Sustainability

10.14. Paragraph 11 of the NPPF (December 2024), sets out the presumption in favour of sustainable development in determining applications and that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities as such development that does not accord with an up-to-date plan will

not normally constitute sustainable development. However, Paragraph 12 of the NPPF (December 2024), makes clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. When a planning application conflicts with an up-to-date plan permission should not normally be granted.

10.15. In respect of sustainability, the village contains a primary school, public house, a village hall, recreational facilities and places of worship. It also benefits from a limited bus service to York (Traveline Service 21) which links Colton to York via the settlement through a 2 hourly service Monday to Saturday with the first bus from the village being 08:12 and the last bus back leaving York at 17:05 arriving back at 17:52. In terms of access to services and facilities and a choice of mode of transport. The Council considers that the settlement does have a level of services and the site can be considered as being in a fairly sustainable location with some alternatives to car-based travel. NPPF paragraph 84 which restricts isolated dwellings does not apply, nor does paragraph 91 which relates to main town centre uses.

10.16. Paragraph 8 of NPPF outlines that there are three overarching objectives which are interdependent and need to be considered in assessing whether a scheme is sustainable development, i.e. the economic objective, social objective, and an environmental objective. Paragraph 9 notes that planning policies and decisions should play an active role in guiding development towards sustainable solutions but in doing so should take account of local circumstances to reflect the character needs and opportunities of each area. With Paragraph 10 stating that “sustainable development should be pursued in a positive way and is at the heart of the framework is the presumption in favour of sustainable development”, under Paragraph 11.

10.17. It is noted that the following benefits would arise from the proposed development:

<u>Economic</u>
The proposal would generate employment opportunities in both construction and other sectors linked to the construction market. The proposal will bring additional residents to the area who in turn will contribute to local economy through supporting the existing local facilities. The proposals could enhance provision of local workforce for the businesses, although this will depend upon potential employee skill matches and vacancy requirements.

<u>Social</u>
As well as market housing the proposal will deliver affordable housing to meet a defined need in the area. In addition, the scheme would include provision of on-site recreational open space and will make contributions to provision of ecology and highway mitigation. The site is also able to be delivered and contribute to the five year housing land supply requirements with the Applicant confirming that reserved matters will be applied for without delay.

<u>Environmental</u>
The proposal can take into account environmental issues such as climate change ecology / biodiversity and will deliver environmental benefits in the form of open

space provision. Proposals would provide housing outside the boundaries of the Designated Service Village in a sustainable settlement in the district

10.18. The site is considered to be a site in a sustainable location (on the edge of a Designated Service Village) and given that Paragraph11d is engaged as a result of the housing land supply position, development on the site is considered acceptable. On this basis, the relevant material factors to be taken into consideration in weighing up whether to release this safeguarded land includes the Council's position on housing land supply to date and whether it is acceptable to allow for more development, taking into specific account the sustainability of the settlement and whether it is appropriate, given the time period since its designation.

10.19. Although the Council has ceased work on the ELP and draft allocation and policies no longer hold status as part of an emerging plan and they cannot be afforded weight on the basis of them being part of the process, this site is part of a potential allocation (AROE-K). Taking all of these factors into account in applying the planning balance in considering the principle of development of the site, there are significant considerations that weigh in favour of the proposal and it is concluded that the location of the site is appropriate for residential development in respect of current housing policies position on housing land supply and the guidance and sustainability contained within the NPPF (December 2024). Obviously, as noted above limited weight can be afforded to the ELP and the sites identification as a potential allocation in this plan. The site is meeting the requirements of AROE-K in terms of the extent of affordable housing provision i.e. 20%, education contributions, and through the reserved matters in the context of the parameters plan can meet the design based elements and highways / pedestrian linkages.

Previous levels of growth

10.20. CS Policy SP5 designates levels of growth to each of the 3 main towns, the group of Designated Service Villages and the Secondary Villages based on their infrastructure capacity and sustainability. There has been growth in Appleton Roebuck, however, in the context of the increase of housing land requirements arising from the NPPF then there is a need to release sites for development which are deemed to be a sustainable location This is an opportunity that should be supported by in the context of Paragraph 11d, notwithstanding levels of growth the settlement has already incurred. The growth of the Designated Service Village is preferable to growth of lower ranking settlements and as such all opportunities should be considered in the context of the guidance in the NPPF

Deliverability

10.21. In terms of deliverability, the application seeks outline consent and the applicants have confirmed that they will be seeking to bring the site forward for development should context be secured. Ultimately, the NPPF aims to boost and maintain the supply of housing and this is a material consideration when evaluating planning applications.

Section 149 of The Equality Act 2010

10.22. Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.23. The development of the site for residential purposes would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics and could in the longer term have a positive effect.

Conclusion on the Principle of the Development

10.24. The proposal would be the release a greenfield site for development which is outside of development limits. It would therefore conflict with the fundamental aims of Policies SP1 and SP2 of the Core Strategy. However, significant weight is given to the Council's lack of a and the engaged tilted balance of Paragraph 11d.

Loss of agricultural land

10.25. The site is used largely for arable agricultural purposes. Policy SP18 of the Core Strategy seeks to sustain the natural environment by steering development to areas of least agricultural quality. NPPF paragraph 187 states that decisions should contribute to and enhance the natural and local environment by b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Policy SP18 is consistent with the NPPF and is given significant weight.

10.26. The Neighbourhood Plan includes Policy ELH1 which states that "Proposals for development which results in the loss of the best and most versatile agricultural land will not be supported except in exceptional circumstances where the benefits to the community are shown to outweigh the harm, for example with regard to the provision of new community facilities which would otherwise be unachievable. In such circumstances, any harm will be required to be mitigated, for example by using the minimum amount of land to achieve the important benefit or by appropriate planting and landscaping".

10.27. Agricultural land is classified using grades 1, 2, 3a, 3b, 4 and 5. Best and most versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification. The Yorkshire and Humber Agricultural Land Classification indicates the site is entirely grade 2 'good' agricultural land. However, the application includes an Agricultural Land Classification Assessment which includes data on bores

done on site and concludes that the 1 hectare of the site is in fact Grade 3b due the characteristics of the site, with the 0.3 hectares being non-agricultural land / garden land associated with the landowners adjacent dwelling.

10.28. As there is no evidence before the Council to contradict this Assessment then the site is accepted to be Grade 3b, and it is considered that the scale of loss agricultural land arising from the development would result in minor harm to the agricultural economy in the area as well as food self-sufficiency. Even if the land was demonstrated to be Grade 2 the position of the Council would be the same and the loss of agricultural land is contrary to Core Strategy Policy SP18, ELH1 and NPPF paragraph 187 b). This must be weighed in the planning balance.

Housing density and mix

Density

10.29. Saved Policy H2B of the Local Plan states "Proposals for residential development will be expected to achieve a minimum net density of 30 dwellings per hectare in order to ensure the efficient use of land. Higher densities will be required where appropriate particularly within the market towns and in locations with good access to services and facilities and/or good public transport. Lower densities will only be acceptable where there is an overriding need to safeguard the existing form and character of the area or other environmental or physical considerations apply".

10.30. Core Strategy paragraph 7.80 states "The quality of design in its local context is more important than relying on a minimum housing density figure to benchmark development……. Therefore, the Council does not propose to set a development density figure in this strategic plan". Policy SP19 states residential development should "Positively contribute to an area's identity and heritage in terms of scale, density and layout".

10.31. The Neighbourhood Plan Policy H1(a) states that "New housing developments should be small in scale (under 10 units) and not overwhelm their surroundings". In addition, Policy H1(c) notes that "the density of new development should reflect that of their immediate surroundings".

10.32. NPPF footnote 9 requires consideration of NPPF paragraph 129 which requires "Planning policies and decisions should support development that makes efficient use of land, taking into account: (a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; (b) local market conditions and viability; (c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use; (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and (e) the importance of securing well-designed, attractive and healthy places."

10.33. Paragraph 130 encourages consideration of minimum densities “where there is an existing or anticipated shortage of land for meeting identified housing needs”.

10.34. The erection of 32 dwellings on 1.39 hectares as shown on the design principles parameter plan would result in a net density of 23 dwellings per hectare. It is important to note this is only an indication because of the outline nature of the application. The actual density will be established at reserved matters stage when the number of dwellings would also be confirmed.

10.35. The minimum density requirement in Policy H2B is in conflict with the design led approach in Policy SP19. The proposal would be an efficient use of land as required by NPPF paragraph 129. NPPF paragraph 130 is not engaged because there is no shortage of land to meet housing needs.

10.36. In terms of Policy H1 of the Neighbourhood Plan, then clearly the scheme does not accord with Policy H1(a) as it is in excess of 10 dwellings. Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflict with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted which is Policy SP19. The proposal would be an efficient use of land as required by NPPF paragraph 129, and the conflict with Policy H1 of the Neighbourhood Plan is noted. However given the approach of Paragraph 14 of the NPPF and the engagement of Paragraph 11d it is not considered that the scheme can be refused for a conflict with Policy H1 of the Neighbourhood Plan.

10.37. On this basis it is considered that the proposed housing density is appropriate in these circumstances.

Mix

10.38. The application is in outline for up to 32 dwellings. The applicants have confirmed that the scheme will deliver 20% of the units as affordable provision and that 6% of the total units provided will meet M4(3) requirements and 3% of the plots will self-build plots. The extent of the provision for affordable housing is considered later in this report.

10.39. In terms of mix, then the basis for the requests arises from the 2020 Housing and Economic Development Needs Assessment (HEDNA), Policy SP8 of the Core Strategy and the NPPF.

10.40. Policy SP8 Housing Mix states “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.”

10.41. Policy H2 of the Neighbourhood Plan states that

a) New housing developments should provide for a mix of size and types of homes, including making provision for young families and the elderly.
b) Support will be given to proposals that reflect the housing needs of the area as set out in the most recent Strategic Housing Market Assessment, local Housing Needs Survey and/or residents survey

10.42. NPPF paragraph 64 seeks to create mixed and balanced communities through affordable housing provision. Policy SP8 is consistent with the NPPF and is given significant weight.

10.43. Paragraph 10.36 of the Housing and Economic Development Needs Assessment (HEDNA) (October 2020) states: "The 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time, and demand can change over time linked to macro-economic factors and local supply." The wording of the HEDNA intends to provide an element of flexibility in the precise mix put forwarded within applications. The table below from the 2020 HEDNA shows the need for sizes of homes per tenure type.

Type of Housing	Size of House			
	1 bed	2 bed	3 bed	4+ bed
Market	0-10%	25-35%	40-50%	15-25%
Affordable home ownership	10-20%	40-50%	30-40%	0-10%
Affordable housing (rented)	30-40%	35-45%	15-25%	0-10%

10.44. The application form does not confirm the precise housing mix given the outline nature of the application. Therefore, in order to prevent a pronounced overprovision of a single house type and to secure a mixed and balanced community, a condition is required to ensure the precise housing mix is submitted with the reserved matters application and agreed by the Council in order to comply with Policy SP8 and the HEDNA.

10.45. The Housing and Economic Development Needs Assessment 2020 shows there is predicted to be "A 72% increase in the number of people aged 65+ with dementia and a 60% increase in those aged 65+ with mobility problems (2020-40)". It recommends 5% of dwellings should meet Building Regulations M4(3)- wheelchair user dwellings. The 5% figure is increased to 6% to account for minor development not making such provision. It is considered necessary to condition this to ensure housing meets future needs. The applicants have confirmed agreement to such provision and this can be controlled via condition.

10.46. The Self-build and Custom Housebuilding Report December 2024 shows, on 30th October 2023, there were 39 individuals on the Selby register. The report also says 188 plots were permissioned between 1 April 2016 and 30 October 2023. However, there is some uncertainty going forward as to whether these permissions would count against need because the most recent appeal decisions show a need to secure self

and custom build by s106 for it to count. It is prudent to consider there is a significant unmet meet in the area and the 3% of all plots as self or custom build suggested in the emerging Selby Local Plan is a reasonable suggestion to secure an appropriate housing mix.

10.47. The applicants have confirmed agreement to provision of M4(3) units and Self build / custom build plots as part of the scheme and this can be controlled via S106 and a mix of types can be considered at the reserved matters stage. This is considered acceptable.

Character and appearance including Landscape, Conservation Area and Materials

10.48. The application site is not within the Conservation Area, nor is the proposed access. The Appleton Roebuck Conservation Area boundary lies to the east of the application site. The Planning (Listed Building and Conservation Area) Act 1990 is not a relevant act in the determination of this application. The proposals do not affect a listed building or its setting and therefore this consideration is not required to be considered in this case. The application site is not on land nor affects a building within a conservation area and therefore the provision to pay special attention to the desirability of preserving or enhancing the character or appearance of that area is not a statutory duty and therefore section 72 (1) is again not applicable in this case.

10.49. The Council Conservation Officer has also considered the scheme and has noted no objection to the application and noted that “a standard house type development on the gateway to the village should be avoided.”

10.50. The detailed design of the scheme including the external appearances of the houses will be a matter for the reserved matters stage and it is considered that through careful design an appropriate scheme can be developed for the site, that can take account of the comments the Conservation Officer.

10.51. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Policy SP19 requires proposals to have regard to local character, identity and context of its surroundings including settlement patterns and the open countryside. Key requirements include incorporating new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate.

10.52. The Neighbourhood Plan has a series of key objectives including “To maintain and enhance countryside character and heritage protection across the parish” and this is reflected in Policy DBE2 which seeks to ensure development respects the overall palette of traditional design and the character of the area.

10.53. NPPF footnote 9 requires consideration of paragraph 135 which requires planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, provide

effective landscaping, while not preventing or discouraging appropriate innovation or change (such as increased densities). Paragraph 139 resists bad design and supports good design.

Landscape

10.54. The Selby Landscape Character Assessment (November 2019) is given some weight as a material consideration. It identifies the application site as being within "Character Area 1 - York Fringe West" with key characteristics including being characterised low lying, gently undulating topography which is flat in places, particularly around the floodplains of the River Wharfe to the south and River Ouse to the east. Undulations in the landscape are most prominent in the north-west of the character area, near the settlements of Bilbrough and Healaugh. In terms of Appleton Roebuck, it also notes that it is well integrated into the landscape with vegetated boundaries, and overall the area has a rural character. The nature of the small, dispersed villages and lack of major roads mean that in the most part it avoids traffic, giving it a quiet and tranquil feel. Areas in closer proximity to the railway lines and A64 are more prone to noise from passing vehicles and trains. Although generally flat, long outward views tend to be obstructed even from higher ground, by low-lying landforms such as hedgerows and woodland

10.55. The Selby District Landscape Sensitivity Study (October 2021) is given some weight as a material consideration. It puts the application site within land parcel reference AR1 in Appleton Roebuck Northern Fringes. It notes the parcel has limited topographical variation, comprising small scale fields adjoining the settlement edge - this relates to the application site. Overall development guidelines states "The existing nucleated settlement form would be altered by the development of the Parcel and is likely to cause a loss of settlement identity to what is currently a small village." The overall assessment of landscape sensitivity to development scenarios considers landscape assessment parcel AR1 to be of low to medium sensitivity to a 2-3 storey residential housing development stating "Few of the key characteristics and qualities of AR1 and AR2 are vulnerable to change as a result of the introduction of the development scenario, resulting in an overall low-moderate sensitivity".

10.56. The application site comprises of a slightly sloping site adjacent to an existing dwelling. The Colton Lane frontage benefits from an established hedgerow adjacent to the highway broken by a field gate access. The submitted Landscape Assessment Report outlines that the site "is a typical agricultural field and grassed field, bound by hedgerows, and located on the edge of the village. It is influenced by the presence of the existing built edge of the village, by the main road directly adjacent to it which leads to the village and by a degree of visual enclosure provided by the vegetation to the east of the site. The site does not contain any rare or notable character features such as the large heathlands and coniferous plantations found within the wider Landscape Character Type." It also acknowledges that it will be important in landscape terms to ensure that the "materials palette, massing and form of the dwellings complements and respects the landscape surroundings and the settlement edge of Appleton Roebuck, with a particular need to ensure the frontage onto Colton

Lane is appropriately designed so as to blend into the existing street-scene. The incorporation of new planting to the western and northern boundaries of the site is a key design consideration for this application to ensure that a filtered view of the development can be provided creating a softened new settlement edge to the village. This will also bolster the condition of the landscape features within the wider landscape character type in accordant with published character documentation". In this context the submitted report concludes that "there is likely to be a limited change to the landscape character context of the site as a result of the proposed dwelling, and the potential for impacts on the visual amenity of only a very localised and limited number of viewers, most of whom will be private residents and users of local roads, such that for the most part there will be negligible effects on public users" and that "The siting, proposed height, form and materiality of the development will be paramount to ensure that it will complement the existing character of Appleton Roebuck as well as the rural and agricultural landscape that surrounds the village."

10.57. The submitted landscape and visual appraisal (LVA) concludes "the design of the proposed development can be readily accommodated into the site without any unacceptable impact on landscape character or visual amenity. Furthermore, the proposed boundary treatments and new native tree and hedgerow planting will contribute towards the improvement of the character and visual appearance of the landscape at a local level, which is consistent with the management objectives set out within published character documentation."

10.58. The parameter plan shows there will be sufficient scope at reserved matters stage to secure a planting scheme to the site boundaries which will serve to filter views of the proposal from the countryside when approaching the settlement, and from the Colton Lane frontage. There will also be scope to secure compensatory planting within the development. The parameter plan shows this enhanced planting on the Colton Lane frontage, enhancement of the hedgerow through additional hedgerow planting and tree planting to the northern boundary and an area of tree planting to the eastern sector of the site. Minor benefits to the landscape and screening of the proposal would arise from the enhanced planting. The proposed access and pedestrian / cycle links will require the removal of some of the roadside hedgerow on Colton Lane.

10.59. The impact of the scheme has been considered by the Landscape Officer, whose comments are set out early in the report. The Officer support for the findings of the landscape and visual appraisal and the accompanying landscape strategy and visual mitigation alongside noted enhancement recommendations. It is also noted by the Landscape Officer that the views of the site are limited due to the gently undulating topography and the dense well-managed roadside hedges and feel boundaries. In this context it is also noted that landscape mitigation will be required as part of the scheme and as a result an updated parameters plan was provided by the applicants to reflect the comments of the Landscape Officer with development being set back from Colton Road, the introduction of a green frontage to Colton Road, the reinforcement of the green boundary around the perimeter of the site particularly along the northern boundary, the provision of the central open space and the locating of surface water attenuation in the north-west corner. In this context the Landscape

Officer's comments of October 2024, noted the updated parameters plan and confirmed this was acceptable with no further comments being made.

10.60. As such is concluded that the development of the site would not result in major harm to the surrounding landscape. Landscape impacts are localised and the proposal offers the opportunity to secure a softer edge to the village as shown on the design parameter plan. As such it is considered that there would be a moderate adverse impact on local landscape and visual effects of the proposed development, and the potential moderate beneficial effects of additional planting should be given due consideration in the planning balance.

10.61. The moderate adverse localised landscape and visual effects will be weighed in the planning balance. There would be a need to condition the requirement for an updated Arboricultural Impact Assessment, confirmation of Tree Protection Plan and to ensure suitable protection of the existing trees and hedgerows as part of the development.

10.62. On balance, it is considered that even though the proposal extends into the countryside, when looking at the development limit boundary this site would effectively create a defensible landscaped boundary which would ensure that the development would be neither visually prominent, nor discordant within the landscape. Officers would advise that given the site's location on the edge of the settlement and subject to landscaping and the retention of existing hedgerows in line with the parameters plan it is considered that a suitable landscaping scheme and boundary treatment could be achieved at reserved matters stage to ensure that the scheme has an acceptable impact on landscape and the character and form of the area and accords with Policy SP18.

Materials

10.63. The design and materials on the surrounding properties are a mixture and as such it is considered that proposals could incorporate appropriate materials and detailed design finishes at reserved matters stage which would respect the character of the surroundings reflective of the approaches outlined in the Village Design Statement and the submitted Design and Access Statement.

Conclusion on impact on Character of Area

10.64. Having taken all of the above into account it is considered that the site could provide an appropriate layout, appearance, scale and landscaping at reserved matters stage. Furthermore, it is considered that an appropriate design, could be achieved that would be in accordance with the provisions of the noted policies.

<u>Flood risk, and Drainage</u>

10.65. Relevant policies in respect of flood risk, drainage and climate change include Policy ENV1(3) of the Selby District Local Plan and Policies SP15 "Sustainable Development which seeks to apply sequential and exceptions tests, and Climate

Change", SP16 "improving Resource Efficiency" and SP19 "Design Quality" of the Core Strategy.

10.66. The Neighbourhood Plan includes Policy DBE4 which seeks to ensure that new development does not add to the overall level of flood risk for the parish, locates development away from Flood Zones 2 and 3, includes surface water management to ensure no increased flood risk on site or downstream, alongside the use of sustainable urban drainage approaches and a presumption against culverting and development constricting of existing watercourses. The policy also notes that "If existing capacity in the local sewerage system / or water distribution network is insufficient, a connection must be provided to the system at the nearest point of adequate capacity as advised by Yorkshire Water."

10.67. NPPF paragraph 170 requires "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." NPPF paragraph 173 requires a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. The proposal does not benefit from the exemption in NPPF paragraph 175. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The development plan policies are consistent with the NPPF and are given significant weight.

10.68. The site is in flood zone 1 (low risk) and is not at risk from river and sea flooding with or without defences or surface water flooding even accounting for climate change.

10.69. The application is accompanied by a Flood Risk Assessment (prepared by WML Consulting dated March 2024). This considers surface water management flood risk characteristics of the existing site, potential sources of flooding and defines a drainage strategy for the site. The proposed development is to be drained via separate foul and surface water drainage systems. It is confirmed that the surface water drainage proposals will be designed to the relevant building regulation standard and a hierarchy based on discharge via infiltration in advance of discharge to watercourse or discharge to sewer. Any new driveway areas will be drained by infiltration and discharge is expected to be made to the adjacent watercourse which runs along the sites western boundary. Such discharge would be a greenfield run-off rates, there will be no discharge to public surface water sewers in the vicinity of the site. In terms of foul water drainage, the Flood Risk Assessment confirms that this will be directed to the existing public drainage system. Further information was provided during the life of the application in relation to drainage seeking to demonstrate that infiltration will not be viable on the site.

10.70. The LLFA has considered the proposal and additional infiltration document and raises no objection subject to conditions. Initial comments from Yorkshire Water also noted no objection to the scheme subject to conditions and clarification of the position of the Internal Drainage Board. The position of the Internal Drainage Board has been confirmed in the response noted earlier in the report. Again, they have no objections

to the application subject to detailed design and not introducing built form within 3m of their watercourse. Conditions are requested requiring submission and agreement of the scheme for surface and foul water drainage and an easement for 3 metres adjacent to the top of the embankment of the watercourse, alongside informatives relating to watercourse maintenance responsibilities and the need for consent for discharge.

10.71. As noted earlier in the report Yorkshire Water were contacted in March 2025 to seek clarification on their position, given their comments on an application at Malt Kiln Lane Appleton Roebuck (ZG2024/1063/OUT) where they lodged an objection in November 2024 – so subsequent to their comments on this application. Yorkshire Water objected on this site on the basis that was that there was not sufficient capacity in the foul network and a scheme needed to be agreed. In terms of the application site they have confirmed that noted £that the site is allocated in the Selby Local Plan ref: AROE-K with an indicative yield of 28 dwellings. YWS look to support sustainable development, and makes provision for housing sites within Local Planning Authorities development plans, and will promote an investigation into network capacity and potential re-enforcement where it is suspected the existing network does not have adequate capacity to accommodate the anticipated flows generated by the allocated sites within the local plan. This is why development ZG2024/0697/OUTM has not been objected to."

10.72. In this context subject to a Grampian condition to secure a scheme foul water connection, alongside conditions relating to surface water the scheme is considered acceptable in terms of flood risk and drainage subject to conditions.

Climate Change

10.73. Core Strategy Policy SP15 (b) 'Sustainable Development and Climate Change' states that in order to ensure development contributes towards reducing carbon emissions and is resilient to the effects of climate change, schemes should where necessary, improve energy efficiency, minimise energy consumption, use sustainable construction techniques, water efficient design and sustainable drainage systems. Policy SP16 requires the proposal to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources.

10.74. The developers will have to meet the requirements of the amended Fabric Energy Efficiency Standards under Part L of the Building Regulations, which will also cover the provision of the EV charging units for each dwelling. In addition, they will be encouraged to ensure that cycle storage is provided on those units without garaging as part of the reserved matters stage.

10.75. In this context it is considered that a scheme can be secured to accord with the noted policies via design approaches at the reserved matters stage and through Building Regulations.

Access, transport and highway safety

10.76. Core Strategy Policy SP15 requires the proposal should minimise traffic growth by providing a range of sustainable travel options (including walking, cycling and public transport) through Travel Plans and Transport Assessments and facilitate advances in travel technology such as Electric Vehicle charging points; and make provision for cycle lanes and cycling facilities, safe pedestrian routes and improved public transport facilities.

10.77. Core Strategy Policy SP19 requires the proposal to be accessible to all users and easy to get to and move through; and create rights of way or improve them to make them more attractive to users, and facilitate sustainable access modes, including public transport, cycling and walking which minimise conflicts.

10.78. Local Plan Policy ENV1 requires account to be taken of the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking.

10.79. Policy CS6 states “The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development”. The foreword to the policy states “It is equally important to ensure that, where appropriate, proposals for development incorporate measures to compensate for the consequences of development including off-site works. These may include the provision of traffic calming, footpath and cycleway links”.

10.80. Local Plan Policy T1 states “Development proposals should be well related to the existing highways network and will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer”.

10.81. Local Plan Policy T2 states “Development proposals which would result in the creation of a new access or the intensification of the use of an existing access will be permitted provided: 1) There would be no detriment to highway safety; and 2) The access can be created in a location and to a standard acceptable to the Highway Authority. Proposals which would result in the creation of a new access onto a primary road or district distributor road will not be permitted unless there is no feasible access onto a secondary road and the Highway Authority is satisfied that the proposal would not create conditions prejudicial to highway safety.” Policy T7 encourages the provision of cycle routes and parking.

10.82. The Neighbourhood Plan policy H1(d) notes that “Development must be located in an acceptable location in relation to the highway network and must not generate a level of vehicle movements that would result in a loss of residential amenity for neighbours in relation to safety, noise and air quality”.

10.83. NPPF paragraph 109 requires “Transport issues should be considered from the earliest stages of ……development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve: a) making transport considerations an important part of early engagement with local communities; b) ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places; c) understanding and addressing the potential impacts of development on transport networks; d) realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated; e) identifying and pursuing opportunities to promote walking, cycling and public transport use; and f) identifying, assessing and taking into account the environmental impacts of traffic and transport infrastructure – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.”

10.84. NPPF footnote 9 of paragraphs 7-14 “Achieving Sustainable Development” requires consideration of paragraph 110 which states “The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

10.85. Paragraph 115 states “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code ; and (d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.”

10.86. Paragraph 116 states “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, following mitigation, would be severe, taking into account all reasonable future scenarios.”

10.87. Paragraph 117 states: “Within this context, applications for development should:(a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; (b) address the needs of people with disabilities and reduced mobility

in relation to all modes of transport; (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; (d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and (e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations."

10.88. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.

10.89. The application form confirms approval is sought for access to the site. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access as: "in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;" Access arrangements within the site will be covered at the reserved matters stage. The vehicular access to the site is proposed from Colton Lane and a plan has been provided confirming the approach. The plan also confirms visibility splays and the provision of a new footway along the frontage of the site to link to existing footways along Colton Lane to the south. The developer has also confirmed that the Applicant would not object to an on-street cycle lane access to Route 66 if required.

10.90. The LHA considers the main access to the site and broader highway implications of the proposal to be acceptable after having considered additional information from the Applicants subject to conditions.

10.91. In terms of the request from Highways to enhance cycle linkages, then the Developer has noted this request and indicated that this is something they are not in objection to providing to link into Route 66 along Colton Lane. It is considered that this can be covered via a Grampian Condition.

10.92. As such it is considered that there are no harmful impacts upon the highway network as a result of the proposal.

Impact upon nature conservation and protected species

10.93. Local Plan Policy ENV1 requires account is taken of the potential loss, or adverse effect upon, significant wildlife habitats.

10.94. The foreword to Core Strategy Policy SP2 states the protection and enhancement of biodiversity and natural resources is a basic principle of national planning guidance, which can also influence the location of development. Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by promoting effective stewardship of the District's wildlife by a) safeguarding international, national and locally protected sites for nature

conservation, including SINCs, from inappropriate development. b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

10.95. The Neighbourhood Plan Policy ELH2 seeks to conserve restore and enhance biodiversity and protect against the loss of significant harm to habitat which is protected under specific referenced designations. Policy ELH3 also identifies a series of green corridors where development adjacent to these corridors must take account of the function of the corridor and how the scheme will enhance this function.

10.96. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 193 requires when determining planning applications, Local Planning Authorities should apply the following principles: a) 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; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Natural England and Forestry Commission 'standing advice' for ancient woodland emphasises this policy and requires consideration of direct and indirect effects. The advice notes the latter includes "increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland or tree root protection areas; and increasing damaging activities like….the impact of domestic pets".

10.97. The development plan policies are consistent with the NPPF and are given significant weight.

10.98. The application is accompanied by an Ecology and Biodiversity Net Gain Statement alongside a Matrix which was updated during the life of the application, all of which have been considered by the Councils Ecology Officer.

10.99. The submitted information sets out a series of recommendations to protect maintain and enhance ecological features during the operational phase of development as well as mitigation such as retention of hedgerows, tree protection during construction and the timing of works to account for nesting birds as well as approaches in terms of the construction stage to protect mammals and bats. In addition, alongside this, post

development controls and lighting in the vicinity of the boundary habitats are recommended.

10.100. The NYC Ecologist has considered all submitted information and final comments have confirmed that

> "the net gain assessment and associated metric has now been provided for the post development proposals. Whilst this does demonstrate that the site is capable of achieving the required 10% BNG on site, there is no detailed habitat plan against which to check the details. In particular it is important that any habitat features included within domestic curtilages is not double counted. Habitats included within domestic curtilages should be categorised as 'vegetated gardens' and inclusion of additional habitats referenced within the report as 'turfed lawn' and urban trees, should not also be counted within these spatial areas. It is not possible from the information provided to confirm whether this has taken place, however this fine level of detail will be required as part of the Biodiversity Gain Plan (BGP)."

10.101. In line with the advice from Ecology Officers, the deemed condition should be applied to any permission granted along with an appropriate implementation condition. Management of habitats outside of vegetated gardens should be secured by condition for a minimum of 30 years to include a management plan and monitoring schedule to allow the authority to report on BNG outcomes to Defra.

10.102. Overall, the proposal would not give rise to harm to statutory nature conservation sites and no habitat regulations screening is required. Construction phase ecological mitigation measures can be secured as part of the general ecological mitigation and enhancement condition. The same condition would also secure 10% biodiversity net gain and ecological management for 30 years.

10.103. The proposal demonstrates ecological and protected sites impacts are acceptable in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP2 and SP18 of the Core Strategy, the NPPF and the standing advice of Natural England.

Affordable Housing

10.104. Policy SP9 Affordable Housing seeks to achieve a 40/60% affordable/general market housing ratio within overall housing delivery; in pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more; the tenure split and the type of housing being sought will be based on the Council's latest evidence on local need; and an appropriate agreement will be secured at the time of granting planning permission to secure the long-term future of affordable housing. The actual amount of affordable housing, or commuted sum payment to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

10.105. The Developer Contributions SPD (2007) contains a section called “affordable housing for local needs” which is considered to have been superseded by the Affordable Housing Supplementary Planning Document (2014). The Affordable Housing SPD states at “1.4 The latest Strategic Housing Market Assessment (2009) (“SHMA”) identifies the scale of need for affordable housing in the District over the Local Plan period. The SHMA establishes an overall target of 30-50% intermediate housing and 50-70% social rented housing. To meet identified need, affordable housing needs to be the right kind of housing in the right locations. Following the introduction of the Government’s Affordable Rent category, the Council will be gathering evidence to establish the identified need and tenure split of rented housing. This will be set out through a combination of this SPD, future Strategic Housing Market Assessments (SHMAs) and future development plan documents (as appropriate).…….6.3 Negotiations on affordable housing provision on specific sites will also be informed by any further up to date evidence, which will include the latest Strategic Housing Market Assessment (SHMA), current information from the Selby District / North Yorkshire Housing Register, and evidence of existing affordable housing provision in the locality, including the Census 2011.”

10.106. The Neighbourhood Plan references at Section 4.5 that there is support for new development to include affordable housing as part of any scheme and Objective 3 of the plan is to support a “sustainable level and range of new homes to provide for need in the community and to support key facilities and services”. In addition. Policy H2 (b) notes that “Support will be given to proposals that reflect the housing needs of the area as set out in the most recent Strategic Housing Market Assessment, local Housing Needs Survey and/or residents survey.”

10.107. There is a Strategic Housing Market Assessment Update dated February 2019 but this has been overtaken by the more recent Housing and Economic Development Needs Assessment October 2020. Pages 13-15 and 125 of the HEDNA state:

- “When looking at the need for affordable homes to rent, we suggest a need for 141 affordable homes per annum.”
- “The majority of the rented need is for social rented housing, although there is also a role for affordable rent.”
- “It is not recommended that the Council have a rigid policy for the split between social and affordable rented housing.”
- “There are some households likely to be able to afford to rent privately but who cannot afford to buy a suitable home. However, there is also a potential supply of homes within the existing stock that can contribute to meeting this need. It is thus difficult to robustly identify an overall need for affordable home ownership products.”
- “If the Council does seek to provide 10% of housing as affordable home ownership (the default figure suggested in the NPPF), then it is suggested that shared ownership is the most appropriate option. This is due to the lower deposit requirements and lower overall costs (given that the rent would also be subsidised).”

- "There is no basis to increase the provision of affordable home ownership above the 10% figure currently suggested in the NPPF and indeed does provide evidence that the 10% figure could be challenged if the Council wished to do so."
- "However, it does seem that many households in Selby are being excluded from the owner-occupied sector. The analysis would, therefore, suggest that a key issue in the District is about access to capital (e.g. for deposits, stamp duty, legal costs) as well as potentially mortgage restrictions (e.g. where employment is temporary) rather than simply the cost of housing to buy." (page 125).

10.108. NPPF paragraph 65 permits affordable housing to be sought on major developments such as this. NPPF footnote 9 requires consideration of Paragraph 66 which expects that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Footnote 31 states "The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need."

10.109. Policy SP9 provides a broad basis for securing affordable housing and is consistent with the NPPF. The Selby Local Plan and CIL Viability Assessment (August 2022) indicates 20% affordable housing should be sought for this area.

10.110. Affordable housing and viability matters were explored in an appeal decision dated 30th January 2025 for a site in Hambleton reference APP/U2750/W/24/3347885. The Inspector set out:

- The maximum 40% affordable housing in Policy SP9 is derived from an assessment in around 2009.
- However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (Selby Local Plan & CIL Viability Assessment (2022) to inform Policy HG7 in the emerging Selby Local Plan, and this says it considers a greenfield delivery of 20% affordable housing to be viable in this area of Thorpe Willoughby.
- Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report when compared to that informing the Core Strategy, the Inspector considered this report constitutes a material consideration to which was given significant weight in his assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks 'up to a maximum' of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

- The appellants viability appraisal showed with an 18% profit, 10% affordable housing was viable. The Council considered 30% affordable housing was viable due mainly to differing opinions regarding gross development value and abnormal costs.
- Such appraisals involve subjective judgements. Neither is necessarily wrong. The appellants proposal of 10% would be in line with the Aspinall Verdi report. That report did not say 10% is the starting point for negotiations for a higher percentage. Such an approach would remove any certainty or confidence from the process.
- The Inspector favoured the appellants use of historic sales values from the specific settlement, adjusted by index linking, rather than those from nearby villages.
- The Inspector found in favour of the appellants approach to viability.
- The Inspector dismissed the Council suggestion that affordable housing levels be revisited at reserved matters stage because there would be no need to have undertaken such work at outline stage and in his opinion delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward.

10.111. The same matter was considered in an appeal decision dated 20th February 2025 at land east of Broadacres, Mill Lane, Carlton reference APP/U2750/W/24/3347833. The Inspector considered at "11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal where the Inspector Ref: APPU2750/W/24/3347885 considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved."

10.112. The application proposes 20% affordable housing, which is in line with what was envisaged in the ELP. Affordable housing should be secured as percentages given the outline nature of the proposal means the final number of dwellings may change at reserved matters stage. The new NPPF does not require First Homes but it is possible for applicants to propose them. In light of the recent appeal decisions, it is considered appropriate to accept the proposed 20% affordable housing as it aligns with the most up to date viability evidence that supported the now withdrawn emerging local plan. This is in accordance with Policy SP9.

10.113. Overall, affordable housing policy requirements are as follows:

- 20% of the total number of dwellings are to be affordable housing. Of these 25% can be First Homes. If the developer is unable to dispose of the FH units a legal clause will require other opportunities to be considered before they are

disposed of on the open market. These are: An option for the Council to buy or nominate a purchaser. This is for the Council or said purchaser to utilise the unit as another form of affordable tenure, be that intermediate or rental; or the payment of an additional FH Charge at 30% of the market value of the property to the Council. This allows the property to be sold on the open market and the sum (30%) ring-fenced for the delivery of affordable housing in the locality by the Council. The overall split shall be 25% First Homes, 65% affordable rent and 10% shared ownership.

10.114. The applicant has offered 20% of the units as affordable housing (so up to 6 units if 32 dwellings are built); 25% of which would be First Homes (so of the 20% this would be 1 unit if 32 dwellings are built) and the remaining 5 units should be Affordable Units split affordable rent / social rent accommodation (70%) and intermediate tenure (30%).

10.115. This is considered to be acceptable and a Section 106 Agreement will secure this affordable housing.

Recreational Open Space

10.116. Policy RT2 requires the proposal to provide recreational open space at a rate of 60sqm per dwelling on the following basis “provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision. Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.”

10.117. The Developer Contributions Supplementary Planning Document 2007 provides further guidance on the provision of open space.

10.118. The Neighbourhood Plan Policy DBE3 notes that development should meet open space requirements.

10.119. The NPPF at paragraphs 96 and 98 advises that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs for example through the provision of safe and accessible green infrastructure and the provision and use of shared spaces such as open spaces. Paragraph 103 reinforces the importance of access to open space, sport and physical activity for health and wellbeing. Policies should be based on robust and up to date assessment of needs and opportunities for new provision.

10.120. Policy RT2 is considered consistent with the NPPF and is given significant weight.

10.121. A proposal for 32 dwellings would need to provide 60sqm of open space per dwelling equating to 1920 sqm. The parameter plan shows open space within the main central area of the site and the proposal would need to provide the required amount of open space per dwelling.

10.122. The parameter plan confirms that amenity space will be accommodated on the site and the S106 can be utilised to secure provision, implementation, ownership and maintenance of play areas and all recreational open space. These matters are acceptable and can be details can be secured through the S106 and the reserved matters scheme design.

Contaminated Land and Ground Conditions

10.123. Policy ENV2 of the Local Plan states “Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.” Part B of the policy allows contaminated land conditions to be attached to permissions.

10.124. Core Strategy Policy SP18 seeks to protect the high quality of the natural and man-made environment by ensuring that new development protects soil, air and water quality from all types of pollution. This is reflected in Policy SP19 (k), which seeks to prevent development from contributing to or being put at an unacceptable risk from unacceptable levels of soil or water pollution or land instability.

10.125. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 198 requires decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so Council’s should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 199 requires decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

10.126. These development plan policies are consistent with the NPPF and are given significant weight.

10.127. The Preliminary Geoenvironmental Investigation shows The Phase 1 report shows that the site was used as agricultural fields since the earliest mapping, dated 1851. Localised past industrial development in the wider surrounding area includes former gravel pits (145m south-west & 750m west), a smithy (300m south-east), and a brick pond (475m south). Historic maps suggest potential infilling of the nearest gravel pit had been completed by 1891, therefore it is considered unlikely to provide a

significant source of ground gas. The report considers that the land contamination risks at the site range from very low to low. If made ground is encountered on the site, the report recommends a site investigation is carried out to provide information on the physical and chemical ground conditions. The report also recommends that excavated topsoil should be tested prior to reuse in gardens and landscaped areas. In light of the above and subject to a suitable condition related to the reporting of unexpected contamination, the Contaminated Land Consultant advised that it is considered that the proposal would not breach Convention rights contained in the Human Rights Act 1998 in terms of the right to health and right to private and family life.

Noise and Air Pollution

10.128. The policies referred to in the contaminated land section above are relevant. In addition, Policy H1(d) of the Neighbourhood Plan notes that "Development must be located in an acceptable location in relation to the highway network and must not generate a level of vehicle movements that would result in a loss of residential amenity for neighbours in relation to safety, noise and air quality".

10.129. Environmental Health, in commenting on the application, provided comments on the application on the 19th July 2024, and noted that given the location of the site adjacent to other dwellings there is a need for a conditions in relation to a construction management plan, and if there is a need for piling for a schedule of works identifying those plots affected and setting out mitigation measures to protect residents from noise and vibration to be submitted and agreed. Both of these noted conditions are recommended on the basis of protecting the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

10.130. No concerns have been raised by Environmental Health in relation to air quality and an effective construction management plan will be able to ensure any potential construction impacts are mitigated.

10.131. Subject to the above and suitable mitigation through reserved matters approval and planning conditions, it is considered that the proposal would not breach Convention rights in the Human Rights Act 1998 in particular the right to health and the right to private and family life.

Residential Amenity

10.132. Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1. Significant weight is given to this policy as it is broadly consistent with NPPF paragraph 135 (f) which seeks to ensure a high standard of amenity for existing and future users.

10.133. The Neighbourhood Plan policy H1(d) notes that "Development must be located in an acceptable location in relation to the highway network and must not generate a

level of vehicle movements that would result in a loss of residential amenity for neighbours in relation to safety, noise and air quality".

10.134. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

10.135. The application site is located in the countryside to the edge of Appleton Roebuck and there are residential dwellings to the south / south east. It will be possible at reserved matters stage to ensure a layout, scale and appearance of proposed dwellings that has appropriate separation distances between each other and to existing dwellings.

10.136. Construction disturbance would be minimised by a construction management plan, and piling conditions as recommended by Environmental Health.

10.137. On this basis it is considered that the scheme is acceptable in terms of the residential amenity impacts and accords with Policy ENV1 and the NPPF.

10.138. In light of the above, it is considered that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

Archaeology

10.139. Policy ENV28 requires that where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/evaluation to be submitted as part of the planning application; where development affecting archaeological remains is acceptable in principle, the Council will require that archaeological remains are preserved in situ through careful design and layout of new development; where preservation in situ is not justified, the Council will require that arrangements are made by the developer to ensure that adequate time and resources are available to allow archaeological investigation and recording by a competent archaeological organisation prior to or during development.

10.140. NPPF paragraph 207 requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The development plan policy is consistent with the NPPF and is given significant weight.

10.141. Following submission of a Geophysical Survey and a Field Evaluation Report on trial trenching the LPA Archaeologist does not require further archaeological investigation and raises no objections to the proposal. Archaeological impacts are acceptable.

Minerals

10.142. The site is identified on the Coal Authority interactive map as lying within a low-risk area for which the standing advice is to impose an informative to draw this risk to the developer's attention.

Developer Contributions

10.143. Local Plan Policy ENV1 requires account is taken of the capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure.

10.144. Policy CS6 states "The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development".

10.145. Policy SP12 requires where infrastructure and community facilities are to be implemented in connection with new development, it should be in place or provided in phase with development and scheme viability. They should be provided on site, or if justifiable they can be provided off site or a financial contribution sought. Opportunities to protect, enhance and better join up existing Green Infrastructure, as well as creating new Green Infrastructure will be strongly encouraged, in addition to the incorporation of other measures to mitigate or minimise the consequences of development. This will be secured through conditions or planning obligations.

10.146. The Developer Contributions SPD provides further guidance regarding contributions towards waste and recycling facilities; education facilities; and primary health care facilities amongst others.

10.147. NPPF paragraph 34 requires plans to set out the contributions expected from development. Paragraph 100 confirms "It is important that a sufficient choice of early years, school and post-16 places are available to meet the needs of existing and new communities." Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requires planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

10.148. These development plan policies are consistent with the NPPF and are given significant weight.

10.149. NYC Children and Young People's Service have requested a contribution for Appleton Roebuck Primary School to accommodate children from the development. Contributions are not being sought for Secondary School or Special Education Needs provision or for Early Years Provision. The requested contribution is £151,920.

10.150. NHS Humber and North Yorkshire Integrated Care Board confirms that the Practice that is closest to the development and is within reasonable commuting distance is Tadcaster Medical Centre. It is seeking a contribution towards primary healthcare services of £37,818 to accommodate the additional population arising from the development., and they have requested that this is paid before the development commences.

10.151. The Developer Contributions SPD requires a S106 agreement requiring the developer to pay for 4 x 240 litre wheeled bins at a price of £65 per dwelling.

10.152. As such, the scope of financial contributions are therefore as follows:

Primary Education	£151,920 to mitigate the impacts of the development on education provision at Appleton Roebuck Primary School.
Healthcare	£37,818 to mitigate the impacts of the development on healthcare provision at Tadcaster Medical Centre
Waste & Recycling	4 x 240 litre wheeled bins at a price of £65 per dwelling

10.153. These contributions are justified and would need to be secured by s106 with appropriate triggers for payment.

Other matters including those arising from Consultations

10.154. As noted earlier the report there have been a range of issues noted in local representations to the application. The majority of these are considered in the assessment of the scheme, however, there are a number of aspects that have not been covered.

10.155. Objectors have noted that there was no pre-application public consultation by the developer/applicant prior to the submission of the application. Although this is encouraged by the NPPF it is not a formal requirement on an applicant to do such work prior to submission of an application to the Local Planning Authority.

10.156. Objectors have noted concern that refuge vehicles may not be able to access and egress from the site without causing issues of highway safety, or even without having to reverse onto Colton Lane from the development. The application has been submitted in Outline with means of access only for determination and advice has been sought in the application from the Waste and Recycling Officers as well as Highways Officers. Neither of whom have objected to the application. Guidance has been provided as part of the response from Waste and Recycling Officers on the design parameters for any subsequent layout that will be provided at the Reserved Matters stage in terms of vehicles that need to be accommodated for such purposes. The internal highways layout would be expected to meet such

requirements and would also need to include appropriate bin collection points and storage are identified.

10.157. Objectors have raised concerns that HGVs would not be able to access the development at the construction stage or subsequently once the site is occupied. The suitability of the internal layout will be a matter to be considered at the reserved matters stage, and in terms of HGVs accessing the site for the construction stage in the construction management plan will consider aspects such as routing should this be considered necessary. A condition is proposed to require the submission agreement of such a document prior to the commencement of development.

10.158. Objectors have noted that the village already experiences frequent outages of power and there is concern that the extra burden of development arising from the additional dwellings but also from the associated additional heat pumps and car charging points will make this a more regular occurrence. This is not a matter that the planning application can take into consideration as it is a matter for the statutory provider.

10.159. Objectors have noted that the parameters plan and indicative layout will impact on their privacy as occupiers of adjacent dwellings. The indicative layout has not been formally agreed under this application and the reserved matters stage will require a full layout to be provided and at this stage Officers will consider the interrelationship of the proposed development with adjacent dwellings and any impacts on privacy / residential amenity.

10.160. Objectors have noted that they consider that the documents submitted by the applicant do not fully consider the impact on the nearby properties and that they are misleading. Officers have visited the site and are only at this stage considering the parameters plan and not a detailed layout. The reserved matters stage will require a full layout to be provided and at this stage Officers will consider the interrelationship of the proposed development with adjacent dwellings and any impacts on privacy / residential amenity.

10.161. Objectors have noted that the submitted documents showing approach which would allow access through the development site to an adjacent parcel of land also owned by the applicants. The application before Members is purely considering the principal of development of the application site and the parameters plan sets the context for any reserved matters submission going forward. It is not unusual for layouts to show the ability to access adjoining land and such an approach is not unacceptable in planning terms.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the

required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

11.2. The Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.3. Adverse impacts include the modest scale of loss of Grade 3b agricultural land which would result in minor harm to the agricultural economy in the area as well as food self-sufficiency; moderate adverse localised landscape and visual effects; and conflict with the development plan.

11.4. Neutral matters include the lack of conflict with mineral policies; the indicative housing density is appropriate; the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site is not contaminated; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; and education, healthcare and bin contributions are secured to ensure no detriment is caused.

11.5. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a notable contribution to needed market and affordable housing (great weight is given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems and those that want to self or custom build their own home; the scheme will deliver a cycle link to the Route 66; biodiversity net gain and ecological enhancements are secured; provision of open space that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

11.6. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior completion of a S106 agreement.

12.0. RECOMMENDATION

12.1. It is recommended that planning permission be granted subject to prior agreement of a section 106 agreement securing the matters listed below and the conditions listed below:

S106:

- Primary Education - £151,920 to mitigate the impacts of the development on education provision at Appleton Roebuck Primary School.
- Healthcare - £37,818 to mitigate the impacts of the development on healthcare provision at Tadcaster Medical Centre
- 20% of the total number of dwellings are to be affordable housing. Of these 25% can be First Homes. If the developer is unable to dispose of the FH units a legal clause will require other opportunities to be considered before they are disposed of on the open market. These are: An option for the Council to buy or nominate a purchaser. This is for the Council or said purchaser to utilise the unit as another form of affordable tenure, be that intermediate or rental; **or** the payment of an additional FH Charge at 30% of the market value of the property to the Council. This allows the property to be sold on the open market and the sum (30%) ring-fenced for the delivery of affordable housing in the locality by the Council. The overall split shall be 25% First Homes, 65% affordable rent and 10% shared ownership.
- 3% of the total number of plots to be self or custom build dwellings.
- Implementation, ownership and maintenance of play areas and all recreational open space.
- 4 x 240 litre wheeled bins at a price of £65 per dwelling.

Conditions:

01. Details of access (within the site), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

02. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

03. Unless otherwise amended under the conditions below, the development shall be in accordance with drawings Site Location Plan (Ref 01 - Site Location Plan, prepared by Grimster Planning dated 29/05/2024) and Preliminary Highways Access Plan (Ref 2024362/DPL/SK002 Rev A prepared by Development Planning Ltd dated05/09/2024), and the reserved matters shall reflect the form of development shown on Parameters Plan (Ref 04 Rev A - Parameters Plan prepared by Grimster Planning dated 13/09/2024)

Reason: For the sake of clarity and in the interests of proper planning.

Mix

05. The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the Local Planning Authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall be carried out in accordance with the approved details.

Reason: To ensure a mixed and balanced community is created in pursuance of Policy SP8 of the Core Strategy and the Housing and Economic Development Needs Assessment (HEDNA) (October 2020).

Highways

06 Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.

Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in pursuance of Policy ENV1 of the Selby District Local Plan.

07 No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation. The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users in pursuance of Policy ENV1 of the Selby District Local Plan.

08 The development must not be brought into use until the access to the site at Land Off, Colton Lane, Appleton Roebuck has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements: The access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 4.5 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number A1 and the following requirements.

- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority
- Measures to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users in pursuance of Policy ENV1 of the Selby District Local Plan.

09 There must be no access or egress by any vehicles between the highway and the application site at Land Off, Colton Lane, Appleton Roebuck until splays are provided as per submitted document (Preliminary Highways Access Plan - 2024362/DPL/SK002 Rev A) giving clear visibility of 91 metres on eastern side of access and 123 metres on west side of access measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason : In the interests of highway safety in pursuance of Policy ENV1 of the Selby District Local Plan.

10 There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) at Land Off, Colton Lane, Appleton Roebuck until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- vehicular, cycle, and pedestrian accesses;
- vehicular and cycle parking;
- vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear
- provision of a cycle link to Route 66 of the national cycle network.

No part of the development must be brought into use until the vehicle access, parking, manoeuvring and turning areas at Land Off, Colton Lane, Appleton Roebuck have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development in pursuance of Policy ENV1 of the Selby District Local Plan.

Construction Management Plan

11 No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. restriction on the use of Land Off, Colton Lane, Appleton Roebuck access for construction purposes;
3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. details of the measures to be taken for the protection of trees; and
8. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
9. Noise mitigation measures
10. Management of vibration
11. dust mitigation

Reason: In the interest of public safety and amenity in pursuance of Policy ENV1 of the Selby District Local Plan and To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

Drainage

12 The drainage scheme for the development shall be carried out in accordance with the details shown on the submitted Flood Risk Assessment (prepared by WML Consulting dated June 2024)

Reason - In the interest of satisfactory and sustainable drainage in pursuance of Policy SP15 of the Core Strategy.

13 With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be

installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details that prevent environmental pollution in pursuance of Policy SP18 of the Core Strategy.

14. With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development in accordance with SUDS principles shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details in pursuance of Policy SP15 of the Core Strategy.

15 A strip of land 3 metres wide adjacent to the top of the embankment of the watercourse within/adjacent to the site shall be kept clear of all new buildings, structures, walls, fencing, swales/ponds and planting unless agreed otherwise in writing with Ainsty (2008) Internal Drainage Board.

Reason: To maintain access to the watercourse for maintenance or improvement

16. The reserved matters application(s) shall include details of existing and proposed ground levels across the site and related finished floor levels of dwellings for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To prevent dwellings being subject to surface water flooding in localised depressions in ground levels in pursuance of Policy SP15 of the Core Strategy.

Piling

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

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

Landscape

18. Accompanying the Reserved Matters, an updated and detailed Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, including

a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.

Reason: To secure incorporation of existing trees into the development in pursuance of Policy SP19 of the Selby District Local Plan.

19. The landscaping and layout reserved matters application(s) shall include details of landscaping and management and maintenance details, for approval in writing by the Local Planning Authority. The landscaping shall be carried out in accordance with the approved details in full prior to the last occupation of any dwelling hereby permitted and shall thereafter be managed and maintained in accordance with the approved details. Any element of the landscaping buffer that is removed, dies, is seriously damaged or diseased within 10 years of planting shall be replaced with a similar species within the next available planting season.

Reason: In accordance with Policies SP18 and SP19 of the Core Strategy.

Biodiversity Net Gain

20. With the submission of Reserved Matters, a Biodiversity Mitigation and Enhancement Strategy (BMES), including construction phase matters, shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be informed by the Ecological and BNG Assessment (prepared by Rachel Hacking Ecology dated June 2024) and Response to North Yorkshire Ecology Comments 1st October 2024, and shall additionally include:

a) an updated Biodiversity Net Gain Assessment showing 10% gain;
b) a 30 year management and monitoring plan; and
c) implementation timetable.

The development shall be carried out and thereafter managed in accordance with the approved BMES.

Reason: In order to prevent harm to protected species and ensure net gain for biodiversity in pursuance of Policy SP18 of the Core Strategy.

Contamination

21 In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

Informatives

NPPF
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 39 of the NPPF.

Coal Authority - Low Risk Area
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 Mining Remediation Authority on 0345 762 6846 or if a hazard is
encountered on site call the emergency line 0800 288 4242.

Further information is also available on the Mining Remediation Authority website at:
https://www.gov.uk/government/organisations/mining-remediation-authority
Standing Advice valid from 1st January 2025 until 31st December 2026

Biodiversity Net Gain Mandatory Condition

Advice from the Internal Drainage Board
The following criteria should be considered for the disposal of surface water:

- Discharge from “greenfield sites” taken as 1.4 litres per second per hectare of the developed area.
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event.
- A 30% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.

Internal Drainage Board 2
Under the Board’s Byelaws, the written consent of the Board is required prior to any discharge, or increase in the rate of discharge, into any watercourse (directly or indirectly) within the Board’s District

Internal Drainage Board 3
The watercourse adjacent/within this development is not maintained by the Board. The responsibility for the maintenance of the watercourse rests ultimately with the riparian owners

Highways 1
Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities’ Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions). Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant’s responsibility to ensure all necessary permissions are in place.

Highway 2
Detailed Plans of Road and Footway Layouts - It is recommended that in order to avoid abortive work, discussions are held between the applicant, the Local Planning Authority and

the Local Highway Authority before a draft layout is produced and any detailed planning submission is made. To assist, the Local Highway Authority can provide a full list of information required to discharge this condition. It should be noted that approval to discharge the condition does not automatically confer approval for the purposes of entering any Agreement with the Local Highway Authority. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

Target Determination Date: 12.05.2025

Case Officer: Yvonne Naylor, yvonne.naylor@northyorks.gov.uk

Appendix A – Parameters Plan Rev A (received 13th September 2024)

APPENDIX A

Site Boundary

Additional land controlled by the Applicant

Residential development area. Inclusive of road and drainage infrastructure and green infrastructure.

Proposed vehicle access

Indicative access road

Landscape buffer along Colton Road. Inclusive of existing and enhanced planting, as well as SuDS. The precise extent of the buffer will be determined during the Reserved Matters stage.

Tree planting area. The precise extent will be determined during the Reserved Matters stage.

Amenity space. The precise extent will be determined during the Reserved Matters stage.

Landscaped edge. Inclusive of new hedgerow planting or tree planting. The specific details will be determined during the Reserved Matters stage.

Note: Public open space will be determined during the reserved matters application(s). Guidance is provided by the submitted Illustrative Layout (Plan 3) and the Landscape Strategy included in the Design and Access Statement.

grimster PLANNING

Project: Land adjacent to Hillcrest House, Colton Lane, Appleton Roebook

Plan: 04 - Parameters Plan

Scale: 1:2500@A3

Date: 13/09/24

Revision: A

AMENDED DRAWING

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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

30TH APRIL 2025

ZG2023/0551/OUTM OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR MEANS OF ACCESS TO, BUT NOT WITHIN, THE SITE FOR THE DEVELOPMENT OF UP TO 140 DWELLINGS AND ASSOCIATED LANDSCAPING AND INFRASTRUCTURE AT LAND TO THE NORTH OF LEEDS ROAD, THORPE WILLOUGHBY ON BEHALF OF HALLAM LAND MANAGEMENT LTD

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine an application for outline planning permission with all matters reserved except for means of access to, but not within, the site for the development of up to 140 dwellings and associated landscaping and infrastructure at land to the north of Leeds Road, Thorpe Willoughby, Selby, North Yorkshire.

1.2 This application is reported to Committee because the Head of Development Management considers this application to raise significant planning issues such that it is in the public interest for the application to be considered by Committee.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to prior completion of a section 106 agreement to secure the matters detailed below and the conditions detailed below.

2.1. This is an application for outline planning permission for up to 140 dwellings with access to the site to be determined. The design principles parameter plan shows the general layout of the site with housing interspersed with open space, two children's play areas and retained trees. The main vehicular access is proposed from Leeds Road, a pedestrian/cycle link is proposed further east along Leeds Road and an emergency link with pedestrian and cycle access is proposed to the east. A 3m wide shared foot and cycle way is proposed along the site frontage and to the east of the site. The site is within the countryside to the west of the development limit of a Designated Service Village, Thorpe Willoughby. The site is relatively flat and undeveloped with a cluster of buildings and a dwelling near the western boundary. There is an established hedgerow to the southern and eastern boundaries as well as a collection of high quality trees.

2.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 of the Core Strategy because it involves major residential development in the countryside. Policy SP5 of the Core Strategy sets out the scale and distribution of housing within the former Selby area. This policy is now out of date because the

housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. Policy SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

2.3. However, the Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.4. Adverse impacts include the modest scale of loss of best and most versatile agricultural land which would result in minor harm to the agricultural economy in the area as well as food self-sufficiency; moderate adverse localised landscape and visual effects; and conflict with the development plan.

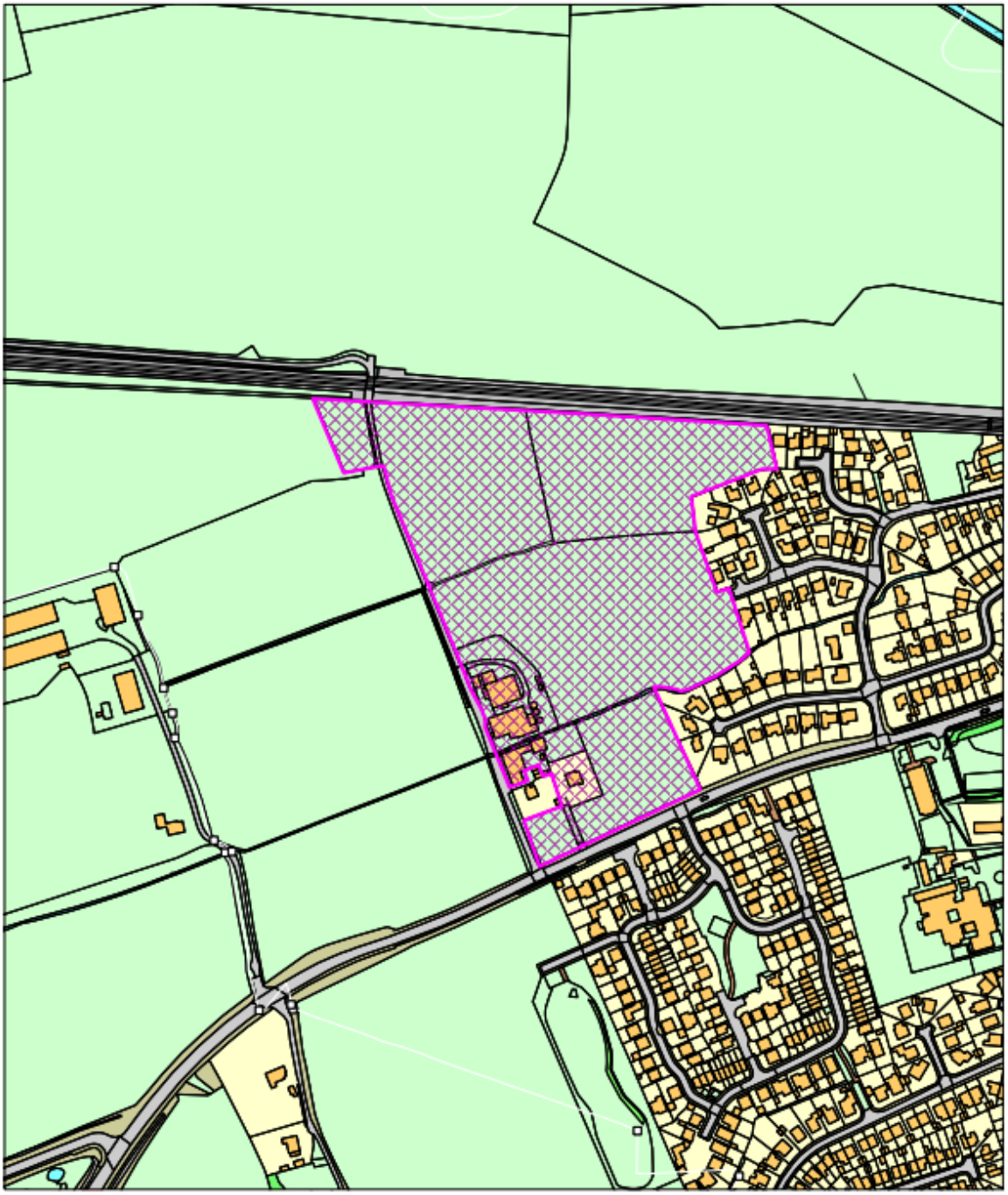
2.5. Neutral matters include the lack of conflict with mineral policies; the indicative housing density is appropriate; the flood risk sequential and exceptions tests are passed, the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; education, healthcare and bin contributions are secured to ensure no detriment is caused; and there would be no harm to the railway.

2.6. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a significant contribution to needed market and affordable housing (great weight is given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems and those that want to self or custom build their own home; the scheme will deliver a section of shared foot and cycle way linking the village to Selby, new bus stops and provide contributions to enhance bus services and cycling which benefits existing and future residents; 10% biodiversity net gain and ecological enhancements are secured; provision of open space and play areas that benefits existing and future residents;

economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

2.7. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and completion of a s106 agreement.

Site Map



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3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:- ZG2023/0551/OUTM | Outline application with all matters reserved except for means of access to, but not within, the site for the development of up to 140 dwellings and associated landscaping and infrastructure. | Land To North Of Leeds Road Thorpe Willoughby Selby North Yorkshire

3.2. During the course of the application amended highway, ecological and layout information was submitted.

3.3. A negative screening opinion was issued to the applicant by the LPA on 8th March 2024 confirming the proposal is not EIA development. There is no other relevant planning history for the application site.

4.0 Site and Surroundings

4.1. The application site is irregular in shape, flat and 6.81 ha in area. It consists of land in arable agriculture use, farm buildings and a dwelling known as Greensleeves. Town Dike passes through the site. A number of trees are present at field boundaries within the site. There is a hedgerow and field access to the Leeds Road frontage. The site surrounds but does not include a dwelling known as Meadow View.

4.2. To the north of the site is a railway with agricultural land beyond; there are dwellings to the east; to the south is Leeds Road with residential dwellings beyond; to the west is Harry Moor Lane with agricultural land beyond and a pig farm. A small parcel of the site is located to the west of the Harry Moor Lane and is intended as a biodiversity net gain area.

4.3. The Thorpe Willoughby development limit is directly to the east of the site hence the site is within the countryside. The site is in flood zone 1 for sea and river flooding, aside from a narrow strip along Town Dike which is in flood zones 2 and 3. The site is mostly at very low risk of surface water flooding aside from areas at medium and high risk near Town Dike and areas at low or medium risk in the north eastern part of the site. The site is at risk of reservoir flooding when there is also flooding from rivers.

4.4. The site is within a sand and gravel, and brick clay safeguard areas. Parts of Brayton Barff to the south of the site are classified as ancient woodland, and a site of importance to nature conservation (SINC).

5.0 Description of Proposal

5.1. This is an application for outline planning permission with access matters to be determined and with all other matters reserved for the erection of up to 140 residential dwellings. The application form details that 21 dwellings would be for social, affordable or intermediate rent; and 7 would be starter homes; the total affordable housing provision being 20%. A vehicular access to the site is proposed from Leeds Road via a priority junction with limited road widening of Leeds Road.

Separate pedestrian/cycle access is proposed further east along Leeds Road. Pedestrian, cyclist and emergency vehicle access is proposed via The Fir Trees.

5.2. The design principles parameter plan is for determination and shows the broad layout of the site including access points, road and footpath layout, housing areas, open space and play areas. Open space is shown to the Leeds Road site frontage with a small cluster of dwellings to the south of Town Dike. A single road crosses Town Dike forming a loop road with various secondary roads and private drives leading from it. There is a separate pedestrian crossing of Town Dike to the east of the proposed road. An attenuation basin with pumping station is shown to the north of Town Dike. The areas to the north and south of Meadow View are open space. The illustrative masterplan is not for determination. It shows how the site could be developed, not how it will be developed.

6.0 Planning Policy and Guidance

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

6.2. The Adopted Development Plan for this site is:

- Selby District Core Strategy Local Plan (adopted 22nd October 2013)
- Those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
- Minerals and Waste Joint Plan (adopted 16 February 2022)

Emerging Development Plan – Material Consideration

6.3. The Emerging Development Plan for this site is:

- Revised Publication Selby Local Plan 2024 (Reg 19)
- North Yorkshire Local Plan

On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. The responses have been considered. From 8 March to 19 April 2024 the Council held a six-week consultation on the Pre-Submission Revised Publication Selby Local Plan. The responses have been considered.

On 17th January 2025, a report was taken to the Selby and Ainsty Area Committee and Development Plans Committee recommending that work on the emerging Selby District Council Local Plan is ceased. A report was taken to North Yorkshire Council's Executive on 4 February and then North Yorkshire Council's Full Council on 26 February with the same recommendation which has been agreed.

Having regard to the above, there is no emerging local plan to consider, but some weight may be given to the evidence base.

No weight can be given to the North Yorkshire Local plan at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2024
- National Planning Practice Guidance
- National Design Guide 2021
- Affordable Housing Supplementary Planning Document (AHSPD) 2014
- Developer Contributions Supplementary Planning Document (DC SPD) 2007

7.0 Consultation Responses

7.1. The following consultation responses have been received and have been summarised below.

7.2. **Thorpe Willoughby Parish Council:** 6/7/2023 Objection "it will lead to increased water runoff into the Town Dyke which will not be able to cope. The town dyke previously flooded the properties on Fir Tree Lane in 2010."

7.3. **NYC Archaeologist:** 23/6/2023 A geophysical survey is required, to be followed by trial trenching, as appropriate prior to determination.

7.4. 21/3/2024: Following submission of a geophysical survey no further archaeological measures are required.

7.5. **NYC Ecologist:** 21/6/2023 Further assessments required. Biodiversity net gain is indicatively achieved. Recreational impacts on Brayton Barff are not acceptable.

7.6. 31/7/2023 In response to the applicant rebuttal of the ecologists comments, NYC ecology reiterates its initial advice.

7.7. 30/10/2023- There will be impacts on Brayton Barff and farm birds. We do not support the recommendation (EcIA page 32) to install nest boxes for generalist hole-nesting birds such as Great Tit and Blue Tit. There is increasing evidence that competition from these widespread and common birds is a significant factor in the decline of rarer woodland species such as Marsh Tit and Willow Tit, both of which are present in the area south of Selby. The proposal to install a Barn Owl box as replacement roosting habitat is welcome. Bats- The existing house was found to support two small day roosts of Common Pipistrelle bats: one occupied by a single animal, the other by two. While all bat roosts are protected by law, such roosts are of lower conservation significance and their loss can be compensated for by standard mitigation measures. On this basis, the proposed development would meet the 'favourable conservation status' test set out in the Conservation of Habitats & Species Regulations 2017, provided appropriate mitigation measures are implemented. Our advice is that the

provision of two tree-mounted bat boxes (EcIA page 33) could only be considered as temporary mitigation since Common Pipistrelle bats show a preference for boxes located on buildings rather than trees. However, the installation of suitable boxes/tubes in 15 of the new houses would provide better than like-for-like replacement habitat, which would consider be welcome and acceptable. As a Natural England protected species licence would be necessary to demolish the building, the applicant would need to liaise closely with their ecologist. Water Vole Evidence of Water Vole activity was found in one on-site ditch (Ditch 2) (EcIA paras 5.8.1 to 5.8.6 & survey report). It is proposed to retain existing ditches, which would not be incorporated into residential gardens, and would be protected during construction. A 7 metre buffer would be established along both banks of D2 and marginal vegetation would be enhanced. While these measures are welcome, the effects of increased disturbance and predation by domestic pets remain a concern. These pressures are acknowledged but categorised as a "Not Significant Negative Effect at a Local Level" (EcIA page 34). We would question this assessment as predation and disturbance could potentially result in the loss of a population of a legally-protected priority species. While the measures outlined on page 35 might have some effect in reducing predation pressure, suggestions such as providing an information leaflet to householders are likely to have limited effect and the Water Vole population would remain at greater risk than under current conditions. More robust measures need to be considered. Should the council be minded to approve this application, we would recommend a Condition that a Construction Environmental Management Plan (CEMP), Landscape & Ecology Management Plan (LEMP) and updated Biodiversity Net Gain assessment be submitted at reserved matters stage, as set out in section 6.4 of the EcIA.

7.8. 31/1/2024- Agree no offsite compensation for farmland birds required. Water Vole- evidence of Water Vole activity often fluctuates dramatically. This emphasises the need to protect any remaining populations even if the results of a single-season survey indicate a low level of activity. Recommends a condition to re-survey prior to commencement and review mitigation measures accordingly.

7.9. 28/3/2024: Our preferred approach would be for a re-survey of Water Voles to be carried out at reserved matters stage, so that the mitigation strategy can be reviewed based on up-to-date information. Should a repeat survey demonstrate that a significant and persistent Water Vole population is present, we would expect the applicant's ecologists to consider mitigation measures additional to those proposed, potentially including off-site habitat improvements for the species.

7.10. 9/5/2024 Concerned about the impact of increasing recreation pressures upon Brayton Barff ancient woodland SINC. However, following the Inspectors decision at Barff Lane, Brayton it is considered that these applications would not present a conflict with paragraph 186c of the NPPF related to irreplaceable habitats. However, there is a need for these developments to maximise the use of open space on site for recreation.

7.11. **NYC Environmental Health:** 13/6/2023 Conditions are recommended regarding noise mitigation, noise limits from air source heat pumps, air quality, a Construction Environmental Management Plan, construction hours and piled foundations.

7.12. 15/3/2024- The encroachment of residential settlements within 400m of an established intensive livestock operation creates a potential for amenity odour impacts. In this case, the agent of change principle takes effect, and I would advise that the applicant should provide the necessary reassurances that future occupants will not be subject to unacceptable odour impacts.

7.13. 4/7/2024- The amended noise assessment is agreed. A condition will be required to secure noise mitigation to dwellings. Odour impacts are acceptable. Comments dated 13 June 2023 are still relevant.

7.14. **NYC Landscape Architect:** 2/10/2023 Comments provided on the indicative masterplan and landscape strategy. The proposed planting along the western boundary is a suitable treatment for the adjacency to the open countryside beyond. It would not entirely screen the development but would help to soften the juxtaposition. The oak trees to be retained need greater separation distances to dwellings that take into account their size at maturity. The LVIA makes a fair and reasonable assessment of the site, and the effects of the proposed development on the landscape features of the site, and the landscape character of the site and the wider character area; and the visual effects of the proposed development (as presented in the landscape strategy plan). The methodology and descriptions are in accordance with the Guidelines for Landscape and Visual Impact assessment (GLVIA) - third edition. The proposal would create a long, developed edge to the adjacent countryside. Effects on land use are naturally moderate to major. Effects on trees are assessed as moderate although could be major for mature oak trees but intention to retain is noted. The effect during year 15 is moderate beneficial which is agreed provided the most valuable trees are protected during construction. For the hedges, there would be a moderate adverse effect during the construction phase due to the removal of a long section of the existing native hedge along Leeds Road. This would be replaced. The impact on the wider landscape character in Year 15 would be ‘low’. The impact on the landscape character of the site would be ‘moderate to major’ in Year 1 reducing to ‘moderate’ in Year 15. Thus to summarise, in Year 15 there would be significant beneficial effect on the tree cover across the site, provided the masterplan were suitably designed to provide a robust buffer and protection to the existing Oak trees, and that adequate space is given to proposed tree planting which could be realistically sustained in maturity and would thus supplement the existing tree cover. There would be residual ‘moderate’ effects on the landscape character of the site and the most immediate area. The visual effects from the public rights of way, as recreational receptors of high sensitivity, would be minor at year 15 - partly depending on the quantity and quality of landscape mitigation within the reserved matters scheme. The LVA summarises the visual impact in Year 15 from Leeds Road, and Harry Moor Lane, as ‘moderate/minor’ and ‘moderate’ respectively. This is based on the sensitivity of the receptor as being ‘medium’. Arguably for some users, such as pedestrians, cyclists, and/or local residents, the sensitivity is higher. There would be significant adverse visual effects from Leeds Road, Harry Moor Lane, and adjacent properties. These adverse effects are localised but significant. Thus the moderate (significant) adverse local landscape and visual effects of the proposed development, and the potential moderate beneficial effects on tree cover (provided adequate space is given for existing and proposed trees) should be given due consideration in the planning balance.

7.15. **NYC Lead Local Flood Authority:** 4/9/2023 Further information is required and a series of conditions is recommended.

7.16. 6/2/2024- Soakaways have been proven to not be viable therefore discharging surface water to Town Dyke water course is acceptable subject to IDB consent. A peak flow rate of 7.7l/s is proposed and a pumped outfall rate of 8.7l/s will be used. This is also acceptable to the LLFA. Updated Hydraulic Calculations have been provided which now provide a 40% allowance for climate change and an additional 10% for Urban Creep. It is proposed that gulleys and the attenuation basin will provide pollution mitigation. These have now been shown on the drainage design plan. The submitted documents demonstrate a reasonable approach to the management of surface water on the site. The LLFA recommend that the following conditions are attached to any permissions granted: development to be built in accordance with the submitted design.

7.17. **NYC Local Highway Authority:** 31/7/2023 The access drawings are acceptable. Drawings of the emergency access are required. General road layout comments are provided. Cycle comments are provided. £1350 per dwelling totalling £189,000.00 towards implementation of the cycle strategy for Selby. Travel Plan advice is provided. Transport assessment comments are provided and an updated version is required. Junction capacity assessments to be re-run to include new trip rates and extra committed developments, as well as assessing the signalised junction in Selby which provides the Applicant the opportunity to address the other NYC comments, many of which relate to off-site infrastructure improvements that will be required as matters of site acceptability.

7.18. 30/1/2024: The previous comments are resubmitted with a typographical error corrected regarding s106 contributions towards cycling.

7.19. 8/4/2024: Requests that the applicant provide evidence that the flare length for the island is in line with CD143. The flare length should be a desirable of 1:40 to prevent vehicles making contact with the island.

7.20. 21/11/2024 Further justification provided for s106 contributions to cycle improvements and bus service enhancements.

7.21. 20/1/2025 No objection subject to conditions and s106.

7.22. **NYC Minerals and Waste Team:** 19/6/2023 No objections.

7.23. **NYC Strategic Planning, Children and Young People's Service:** 30/6/2023 Contributions are sought: £427,754.60 towards school expansion places at Selby High School; £94,785.60 towards school expansion places for special school provision; and £118,482.00 towards school expansion places for early years provision. 12/7/2023 Comments clarified.

7.24. 8/8/2024 Contributions are sought: £466,793.60 towards school expansion places at Selby High School and or another secondary school within the locality of the

development; £104,428.80 to be used for the provision of SEND provision at the new Selby Special School; and £55,944.00 to be used for early years provision serving the locality of the development.

7.25. 1/4/25 Contributions are sought: £475,329.40 towards school expansion places at Selby High School and or another secondary school within the locality of the development; £106,344.00 to be used for the provision of SEND provision at the new Selby Special School; and £56,970.00 to be used for early years provision serving the locality of the development.

7.26. **NYC Waste and Recycling:** 15/6/2023 The road design would accommodate waste vehicles; bin presentation points are required at the end of private drives and design guidance is provided; on plot bin storage requirements are detailed; and the developer will be required to pay for bins.

7.27. **Active Travel England:** 26/6/2023 It is content with the development.

7.28. **Contaminated land consultant:** 27/6/2023 The Preliminary Geoenvironmental Investigation and the proposed site investigation works are acceptable. Conditions are recommended regarding investigation of contaminated land; submission of a remediation strategy; verification of remediation works; and reporting of unexpected contamination.

7.29. **Network Rail:** 21/7/2023 No objection in principle. The private level crossing at Harry Moore Lane may be used by residents that mistakenly believe there is a public right of way. Trespass by unauthorised users is a criminal offence and highly dangerous for the individuals concerned as well as a huge risk to operational railway safety which we would find to be unacceptable. Conditions should require measures including changes to the level crossing gates to palisade gates, as well as erecting signage on the approach from Harry Moore Lane to the level crossing. Such signage shall state that there is no public right over the level crossing and must be visible at all times. Conditions are recommended regarding construction methodology, drainage, trespass proof fencing, vehicle incursion measures, landscaping and lighting. It considers every endeavour should be made to provide soundproofing to dwellings. (officer response for assessment section- there is already a sign at the start of Harry Moore Lane confirming the road is private and there is a further sign on the level crossing gate stating private no public right of way which is visible at all times. Changing the crossing gate to a palisade gate would not prevent unlawful access. Therefore, such a condition is unnecessary. The construction methodology and drainage conditions are included. Environmental Health recommended conditions address noise. Trespass proof fencing is unnecessary because there is already one in place. Vehicle incursion measures, landscaping and lighting can be dealt with at reserved matters stage.

7.30. **NHS Humber and Yorkshire Integrated Care Board:** 23/12/2024 The proposed development will therefore generate approximately 336 residents and subsequently increase demands upon existing services. The development will give rise to a need for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises at Tadcaster and Rural Selby PCN: South Milford

Surgery – Thorpe Willoughby Branch or providing additional resource for a new build health development. A contribution of £165,024 is required for 140 dwellings.

7.31. **North Yorkshire Police:** 14/6/2023 The response provides an overview of national and local policy, crime statistics, and provide design guidance.

7.32. **Selby Area Internal Drainage District-** 17/6/2023 Generic guidance provided regarding drainage options. Drainage to watercourse is restricted to 1.4 litres per second per hectare or greenfield run off rate and would require IDB consent. No obstruction within 7m of the edge of an ordinary watercourse without IDB consent.

7.33. **Yorkshire Water:** 4/7/2023 A water supply can be provided to the development. Liquid storage tank bunding, a CEMP, surface and foul water drainage, no tree planting within 5m of existing sewer, and works to protect said sewer should be conditioned. Domestic foul flows can be accommodated at the wastewater treatment works.

7.34. 23/10/2023 Yorkshire Water does not wish to make any changes from those previously imposed on 04/07/23. Water supply- The submitted 'TECHNICAL NOTE TO ADDRESS LLFA & YORKSHIRE WATER COMMENTS' JAG/DC/48605-TN001-Rev A prepared by Alan Wood, dated September 2023 is acceptable for the purposes of source protection. In summary, the report states that a.) Comments regarding the surface water drainage have been answered adequately, however a CEMP will still be required. Waste Water- 1.) The submitted 'TECHNICAL NOTE TO ADDRESS LLFA & YORKSHIRE WATER COMMENTS' JAG/DC/48605-TN001-Rev A prepared by Alan Wood, dated September 2023 requires amendments, but if planning permission is granted, the matter can be dealt with via condition. In summary, the report states that a.) Foul water will discharge to public foul water sewer - it is stated that the pumped rate will be 4.75 litres per second, which is b.) acceptable however the drawing later in the report still state 6.5 l/s which is not acceptable. c.) Sub-soil conditions do not support the use of soakaways d.) A watercourse exists near to the site- surface water will discharge to this. e.) The means of foul water management has not been properly considered within the FRA/drainage report. Yorkshire Water requires further information regarding the means of draining surface water from the development.

7.35. No response received from Natural England, Tree Officer, Conservation Officer, North Yorkshire Fire and Rescue, Public Rights of Way and Environment Agency.

Local Representations

7.36. Eighty seven letters of objection have been received. A summary of the comments is provided below, however, please see website for full comments.

- The site is not allocated in the development plan or draft local plan.
- The development is too large for the size of the village.
- Excessive housing development within the village.
- Thorpe Willoughby has already had a significantly disproportionate share of the overall growth envisaged in the 18 Designated Service Villages.

- The site was almost allocated in the 2005 Local Plan but this is irrelevant.
- If sites beyond the development limit are to be released they should be taken from the list of potential sites from the 2022-2027 five year housing land supply report to ensure a plan led approach to housing.
- Policies remain up to date because the Council has a five-year supply.
- Brownfield land in Selby should be developed first.
- Housing development should be located in sustainable locations that minimise the need to travel and have good public transport.
- Residential amenity including loss of sunlight, overshadowing, loss of privacy, noise, dust, air quality, disruption and health impacts.
- Landscape and visual harm in a tranquil and attractive area.
- Harm to character by filling the gap to the bypass.
- Loss of field views, trees and hedgerows.
- Traffic and highway safety. Emergency access will increase traffic.
- The emergency access will be the main footpath into the village. The increase in footfall, cyclists, vehicles that can fit through the bollards and dog mess will be detrimental to residents of The Fir Trees
- Loss of farmland and settlement coalescence.
- Cumulative impact of housing developments upon village amenities including play areas, the school, convenience stores, bus service, dentist and doctors.
- The sports club is a private facility so not everyone can access it. Other village parks are small and only serve younger children.
- Lack of public transport.
- The development is located within Hambleton Parish so will not benefit Thorpe Willoughby Parish with no money going to the Parish for amenities to accommodate the extra population.
- Increased air and noise pollution.
- There are bats in the farm buildings and trees.
- Loss of wildlife habitat and harm to protected species.
- Increased recreational pressure upon Ancient Woodland (Brayton Barff).
- Increased flood risk. Photographs of flooded fields and culvert with high water flow provided.
- Will the flow of Town Dike be restricted?
- Play area next to water features is dangerous.
- Increased crime.
- Danger posed by the level crossing on Harry Moor Lane.
- Loss of agricultural employment.
- Low water pressure and poor electricity.
- Affordable housing is not affordable.
- How will utilities be provided?
- Harm to archaeology.
- Property devaluation.

8.0 Environment Impact Assessment (EIA)

8.1. The development proposed does not fall within Schedule 1 of The Environmental Impact Assessment Regulations 2017 (as amended). The development falls within Schedule 2 Category 10(b) Urban Development Projects and exceeds the thresholds for screening. The LPA issued a screening opinion on the 8th March 2024 confirming

the proposal is not EIA development. As such, an Environmental Statement is not required.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Loss of agricultural land
- Minerals
- Housing density and mix
- Character and appearance
- Flood risk, drainage and climate change
- Access and highway safety
- Impact upon nature conservation, protected species and ancient woodland
- Affordable housing
- Recreational open space
- Contaminated land and ground conditions
- Residential amenity
- Archaeology
- Noise and air pollution
- Developer contributions
- Railway implications

10.0 ASSESSMENT

Principle of Development

10.1. Core Strategy Policy SP1 provides a presumption in favour of sustainable development which reflects that found within the NPPF. Policy SP2 provides a spatial development strategy for the location of future development within the former District. It directs the majority of new development to the towns and more sustainable villages. Selby, as the Principal Town, will be the focus for new housing. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing growth will take place appropriate to the size and role of each settlement. The Core Strategy designates Thorpe Willoughby as a Designated Service Village (DSV). Core Strategy paragraph 4.12 states “villages which are considered capable of accommodating additional limited growth have been identified as ‘Designated Service Villages’”. With regard to Designated Service Villages (DSVs), paragraph 4.27 states “The overriding strategy of concentrating growth in Selby and to a lesser extent in the Local Service Centres means that there is less scope for continued growth in villages on the scale previously experienced. However, there is insufficient capacity to absorb all future growth in the three towns without compromising environmental and sustainability objectives. Limited further growth in those villages which have a good range of local services (as identified above) is considered appropriate”.

10.2. Policy SP2 A a) confirms Thorpe Willoughby has some scope for additional residential growth to support rural sustainability and to complement growth in the Principal Town of Selby. Though the supporting text of Policy SP2 states that DSVs are suited to ‘limited further growth’, Thorpe Willoughby is one of 3 DSVs identified as particularly sustainably located, within which growth will complement that in Selby.

However, the application site is not within the development limits of the village but is within the countryside adjacent to the development limit.

10.3. Policy SP2A(c) of the Core Strategy says: *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*

10.4. Policies SP10 Rural Housing Exception Sites and SP13 Scale and Distribution of Economic Growth do not apply to the proposal nor are there other special circumstances.

10.5. The site lies outside the development limit of Thorpe Willoughby, within the open countryside. In this regard the type and location of development proposed would conflict with Policy SP2.

10.6. NPPF paragraph 11 sets out the presumption in favour of sustainable development which states "**11.** Plans and decisions should apply a presumption in favour of sustainable development…….. For decision-taking this means:….. d) where…… the policies which are most important for determining the application are out-of-date [8], granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance[7] provides a strong reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination [9]."

10.7. Policies SP2 and SP5 are the most important for determining the application and are out of date because the LPA cannot demonstrate a five-year supply of deliverable housing sites. Furthermore, Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. There is a 2.6 year supply based on the latest standard method calculation. No NPPF policy relevant to the areas or assets noted in NPPF foot note 7 would provide a strong reason to refuse development. These are "(7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change." The adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits as described in paragraph 11d ii, with particular regard to the key policies. These are defined in footnote 9 as "(9) The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12." These are

detailed in the relevant sections below. Therefore, the presumption in favour of sustainable development applies to the proposal.

10.8. It is still possible to give weight to development plan policies even if they are considered out of date. As set out in NPPF paragraph 232, due weight should be given to policies, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). NPPF paragraph 61 states "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed……. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community." The hierarchy outlined within Policy SP2 itself remains soundly based on an understanding of the role and function of different settlements within the former District. However, continued strict application of Policy SP2A(c), which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

10.9. There remains a requirement to consider the impact on the character and appearance of the area and other technical matters as detailed below.

10.10. In respect of sustainability, the village contains a primary school, public house, a village hall, a church, two general stores, a hairdressers, coffee shop and deli, hot food take-away, a pharmacy and sport and recreation facilities which include playing fields. It also benefits from a somewhat limited bus services to Selby and Leeds. In terms of access to services and facilities and a choice of mode of transport, the site can be considered as being in a fairly sustainable location with some alternatives to car-based travel. NPPF paragraph 84 which restricts isolated dwellings does not apply, nor does paragraph 91 which relates to main town centre uses.

Section 149 of The Equality Act 2010

10.11. Under Section 148 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.12. The development of the site for residential purposes would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics and could in the longer term have a positive effect.

<u>Loss of Agricultural Land</u>

10.13. The site is used for arable agricultural purposes. Policy SP18 of the Core Strategy seeks to sustain the natural environment by steering development to areas of least

agricultural quality. NPPF paragraph 187 states that decisions should contribute to and enhance the natural and local environment by b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Policy SP18 is consistent with the NPPF and is given significant weight.

10.14. Agricultural land is classified using grades 1, 2, 3a, 3b, 4 and 5. Best and most versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification. The Yorkshire and Humber Agricultural Land Classification indicates the site is entirely grade 3 'good to moderate' agricultural land. It does not differentiate between grades 3a and 3b. The application does not include an agricultural land quality assessment. The site is assumed to be BMV. The site area means Natural England is not a statutory consultee for the loss of agricultural land. The scale of loss of best and most versatile agricultural land would result in minor harm to the agricultural economy in the area as well as food self-sufficiency. The loss of agricultural land is contrary to Core Strategy Policy SP18 and NPPF paragraph 187 b). This must be weighed in the planning balance.

Minerals

10.15. The site is within a sand and gravel, and brick clay safeguard areas designated by policy S01 of the Minerals and Waste Joint Plan. Policy S02 requires a minerals assessment for non-exempt development such as this. The submitted mineral resource assessment concludes "The 6.8 hectare proposed development site is within Mineral Safeguarding Areas for brick clay and for sand and gravel. The northern third of the site is within the buffer zone for brick clay, and underlain by sand and gravel. The site is separated from the brick clay resource by a railway line, forming an existing buffer between mineral resources north of the line and residential development to the south; The sand and gravel resource underlying the site is of insufficient size to be considered of any commercial value; Existing residential properties surrounding the proposed development site on the eastern and southern boundary have already sterilised any future potential for mineral extraction at this location; Prior extraction is not considered practical or environmentally acceptable at this location; The Mineral Resource Assessment indicates that an application for non-mineral development within the Leeds Road site meets criteria i) and criteria iv) of NNYCC M&WLP policy S02. The proposed development would not sterilise any mineral not already sterilised by existing development, or prejudice future extraction. The location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource. Accordingly mineral safeguarding should not act as a constraint on development at this location."

10.16. The NYC Minerals and Waste Team consider the assessment "fulfils the requirements of Policy S02 in the MWJP. The Minerals and Waste Planning Team support the conclusion within the assessment so no further action is required in terms of mineral safeguarding."

10.17. The proposal demonstrates mineral impacts are acceptable in accordance with Policies S01 and S02 of the Minerals and Waste Joint Plan.

10.18. The site is identified on the Coal Authority interactive map as lying within a low-risk area for which the standing advice is to impose an informative to draw this risk to the developer's attention.

Housing Density and Mix

Density

10.19. Saved Policy H2B of the Local Plan states "Proposals for residential development will be expected to achieve a minimum net density of 30 dwellings per hectare in order to ensure the efficient use of land. Higher densities will be required where appropriate particularly within the market towns and in locations with good access to services and facilities and/or good public transport. Lower densities will only be acceptable where there is an overriding need to safeguard the existing form and character of the area or other environmental or physical considerations apply".

10.20. Core Strategy paragraph 7.80 states "The quality of design in its local context is more important than relying on a minimum housing density figure to benchmark development……. Therefore, the Council does not propose to set a development density figure in this strategic plan". Policy SP19 states residential development should "Positively contribute to an area's identity and heritage in terms of scale, density and layout".

10.21. NPPF footnote 9 requires consideration of NPPF paragraph 129 which requires "Planning policies and decisions should support development that makes efficient use of land, taking into account: (a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; (b) local market conditions and viability; (c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use; (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and (e) the importance of securing well-designed, attractive and healthy places."

10.22. Paragraph 130 encourages consideration of minimum densities "where there is an existing or anticipated shortage of land for meeting identified housing needs".

10.23. The erection of 140 dwellings on 3.4 hectares of 'area for development' as shown on the design principles parameter plan would result in a net density of 41 dwellings per hectare. It is important to note this is only an indication because of the outline nature of the application. The actual density will be established at reserved matters stage. The minimum density requirement in Policy H2B is in conflict with the design led approach in Policy SP19. Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted which is Policy SP19. The proposal would be an efficient use of land as required by NPPF paragraph 129. NPPF paragraph 130 is not engaged because there is no shortage of land to meet housing needs. The proposed indicative housing density is appropriate in these circumstances.

Housing Mix

10.24. Policy SP8 Housing Mix states “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.” NPPF paragraph 64 seeks to create mixed and balanced communities through affordable housing provision. This policy is consistent with the NPPF and is given significant weight.

10.25. Paragraph 10.36 of the Housing and Economic Development Needs Assessment (HEDNA) (October 2020) states: “The ‘market’ is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time, and demand can change over time linked to macro-economic factors and local supply.” The wording of the HEDNA intends to provide an element of flexibility in the precise mix put forwarded within applications. The table below from the 2020 HEDNA shows the need for sizes of homes per tenure type.

Type of Housing	Size of House			
	1 bed	2 bed	3 bed	4+ bed
Market	0-10%	25-35%	40-50%	15-25%
Affordable home ownership	10-20%	40-50%	30-40%	0-10%
Affordable housing (rented)	30-40%	35-45%	15-25%	0-10%

10.26. The application form does not confirm the precise housing mix given the outline nature of the application. Therefore, in order to prevent a pronounced overprovision of a single house type and to secure a mixed and balanced community, a condition is required to ensure the precise housing mix is submitted with the reserved matters application and agreed by the Council in order to comply with Policy SP8 and the HEDNA.

10.27. The Housing and Economic Development Needs Assessment 2020 shows there is predicted to be “A 72% increase in the number of people aged 65+ with dementia and a 60% increase in those aged 65+ with mobility problems (2020-40)”. It recommends 5% of dwellings should meet Building Regulations M4(3)- wheelchair user dwellings. The 5% figure is increased to 6% to account for minor development not making such provision. It is considered necessary to condition this to ensure housing meets future needs.

10.28. The Self-build and Custom Housebuilding Report December 2024 shows, on 30th October 2023, there were 39 individuals on the Selby register. The report also says 188 plots were permissioned between 1 April 2016 and 30 October 2023. However, there is some uncertainty going forward as to whether these permissions would count against need because the most recent appeal decisions show a need to secure self and custom build by s106 for it to count. It is prudent to consider there is a significant unmet need meet in the area and the 3% of all plots as self or custom build proposed

is a reasonable response to meeting the need and securing an appropriate housing mix.

Character and Appearance

10.29. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Policy SP19 requires proposals to have regard to local character, identity and context of its surroundings including settlement patterns and the open countryside. Key requirements include incorporating new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate.

10.30. NPPF footnote 9 requires consideration of paragraph 135 which requires planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, provide effective landscaping, while not preventing or discouraging appropriate innovation or change (such as increased densities). Paragraph 139 resists bad design and supports good design.

10.31. The Selby Landscape Character Assessment (November 2019) is given some weight as a material consideration. It puts the application site within character area 14 Hambleton Sandstone Ridge with key characteristics including being characterised by two low but distinct and densely wooded hills: Brayton Barff; and Hambleton Hough, which offer panoramic views. Key sensitivities, physical character, notes the hills are sensitive to change compared to the flatter more undulating land surrounding them and that away from the hills themselves the density of woodland may allow sensitive siting of some development though this should respect the setting of the hills. Management guidelines for the area include: housing development around Thorpe Willoughby should be sensitively sited and designed so as to respect the setting of Brayton Barff, and so as not to significantly impact on views from these hills.

10.32. The Selby District Landscape Sensitivity Study (October 2021) is given some weight as a material consideration. It puts the application site within land parcel reference TW1 in Thorpe Willoughby. It notes the parcel does not have significant topographical variation, comprising low-lying agricultural land to the north of the A1238. Notes on any variations in landscape sensitivity states “Land lying to the east of the Parcel has reduced landscape sensitivity due to the presence of the existing settlement edge.” This relates to the application site. Overall development guidelines states “Development of the Parcel would result in the continued containment of the settlement within the corridor of the Selby Rail Line, limiting perceptions of expansion to the north. This would be perceived as incremental expansion rather than settlement coalescence. Development within the Parcel could also afford opportunities to enhance the existing harsh settlement edge.” The overall assessment of landscape sensitivity to development scenarios considers landscape assessment parcel TW1 to be of low to medium sensitivity to a 2-3 storey residential housing development stating “Few of the key characteristics and qualities of TW1 and TW2

are vulnerable to change as a result of the introduction of the development scenario, resulting in an overall low-moderate sensitivity."

10.33. The application site comprises of four flat arable agricultural fields and a collection of large corrugated metal agricultural buildings and a dwelling near the western boundary with Harry Moor Lane. The Leeds Road frontage benefits from an established hedgerow adjacent to the highway verge broken only by a field gate access to the dwelling to be demolished. The hedgerow continues along the Harry Moor Lane frontage and further hedgerows surround the existing dwellings. Town Dike passes through the site in a west to east direction running parallel to Leeds Road. A band of vegetation lines Town Dike including a number of groups of C grade trees and two grade B trees. To the north of the agricultural buildings a line of twelve mature and early mature grade A and B oak trees snakes through the site which make a significant contribution to the landscape and character of the area. On the western side of Harry Moor Lane is a separate parcel of the application site containing a U grade tree to be removed, a grade C group of trees and grade C hedgerow.

10.34. The proposed road widening and shared foot/cycle way extending along the site frontage and further east along Leeds Road will require the removal of the roadside hedgerow and a small number of trees on Leeds Road. Seven of the trees are grade C, one of the trees is grade B and the hedgerow is grade C. These are not considered to be an impediment to the proposal. The parameter plan shows there will be sufficient scope at reserved matters stage to secure a planting scheme to the western site boundary that, in combination with retained trees, will serve to filter views of the proposal from the countryside to the west. There will also be scope to secure compensatory planting along the site frontage with Leeds Road. The parameter plan and illustrative masterplan also shows all of the grade A and B trees retained with sufficient space to allow long term retention. Minor benefits to the landscape and screening of the proposal would arise from the enhanced planting of the biodiversity net gain parcel on the western side of Harry Moor Lane and from the removal of the large agricultural buildings which front on to Harry Moor Lane without any intervening landscaping.

10.35. The application site is very well contained by the railway line to the north, Harry Moor Lane to the west and Leeds Road to the south. This leads to clear defendable boundaries to the open countryside to the west. The proposal would lead to the squaring-off of the overall form of the existing village as Harry Moor Lane aligns very well with the western extent of the village to the south of Leeds Road and the northern section of the proposal abuts the railway line as does the existing built form of the village to the east.

10.36. The proposal would not harm any of the key characteristics of the character area identified in the Selby Landscape Character Assessment, namely Brayton Barff and Hambleton Hough because it is removed from both; and would not harm any of the key sensitivities because the proposal is away from the hills themselves and respects the setting of the hills. The proposal would not significantly impact on views from these hills.

10.37. The lack of major harm to the character and appearance of the area is reflected in the assessment of the site within a wider parcel of land within the Selby District Landscape Sensitivity Study (October 2021) which acknowledged the parcel does not have significant topographical variation and that the “Land lying to the east of the Parcel [the application site] has reduced landscape sensitivity due to the presence of the existing settlement edge.” The well-defined defendable site boundaries are reflected in the overall development guidelines which state “Development of the Parcel would result in the continued containment of the settlement within the corridor of the Selby Rail Line, limiting perceptions of expansion to the north. This would be perceived as incremental expansion rather than settlement coalescence. Development within the Parcel could also afford opportunities to enhance the existing harsh settlement edge.” The proposal would not give rise to concerns regarding settlement coalescence. The western edge of the village has some well landscaped boundaries to the open countryside others have fence lines and dwellings in close proximity to the development limit without landscaping to soften the impact. The proposal would suburbanise the site leading to inevitable harm to the site itself and for existing adjacent residents experience of the site. However, the impacts are localised and the proposal offers the opportunity to secure a softer edge to the village, albeit further west, as indicated in the Landscape Sensitivity Study and shown on the design parameter plan.

10.38. The submitted landscape and visual appraisal (LVA) concludes “From a landscape and visual perspective, any notable effects on landscape character and features as a result of the proposed development would be confined to site itself and immediate local area due to the containment of the site, with visual effects also localised and reduced by the wider topography, areas of woodland and built elements. Overall, the total extent of the landscape and visual effects would be localised in nature. The proposals integrate within the pattern of existing settlement edge development that adjoins the site on its eastern and southern boundaries. Therefore, in view of the localised effects identified in this assessment, it is assessed that a development of the scale and type proposed could be accommodated without undue harm to landscape and visual amenity.”

10.39. The LPA Landscape Architect considers that overall, the proposed development potentially provides some beneficial effects - such as additional tree cover; however there would also be residual moderate adverse effects on the landscape character of the site, largely due to the change in land use from open arable land to predominantly residential development. They consider there would be significant adverse visual effects from Leeds Road, Harry Moor Lane, and adjacent properties. These adverse effects are localised but significant. They opine although the development would in one sense be seen in the context of the existing developed edge, merely by the presence of the latter, the proposed development represents a direct extension to the physical and perceived size of the existing settlement, in particular due to the length of the western edge of the development, created between Leeds Road and the adjacent railway line, from which the development would be visible. Thus, the moderate (significant) adverse local landscape and visual effects of the proposed development, and the potential moderate beneficial effects on tree cover (provided adequate space is given for existing and proposed trees) should be given due consideration in the planning balance.

10.40. The moderate adverse localised landscape and visual effects will be weighed in the planning balance. There would be a need to condition an Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement to ensure suitable protection of the existing trees as part of the development.

Flood Risk, Drainage and Climate Change

10.41. Relevant policies in respect of flood risk, drainage and climate change include Policy ENV1(3) of the Selby District Local Plan and Policies SP15 "Sustainable Development which seeks to apply sequential and exceptions tests, and Climate Change", SP16 "Improving Resource Efficiency" and SP19 "Design Quality" of the Core Strategy. NPPF paragraph 170 requires "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." NPPF paragraph 173 requires a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. The proposal does not benefit from the exemption in NPPF paragraph 175. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The development plan policies are consistent with the NPPF and are given significant weight.

10.42. The site is in flood zone 1 (low risk) for sea and river flooding, aside from a narrow strip along Town Dike which is in flood zones 2 (medium risk) and 3 (high risk), and a ditch further north which is in flood zone 2. The site is mostly at very low risk of surface water flooding aside from areas at medium and high risk near Town Dike and areas at low or medium risk in the north eastern part of the site. The site is at risk of reservoir flooding when there is also flooding from rivers. It is considered reasonable to restrict the area of search to within and immediately adjacent to the development limits of the village because development elsewhere would not result in the wider sustainability benefits associated with development of this nature in this location. Furthermore, this area of search is supported by the Selby District Council Flood Risk Sequential Test Developer Guidance Note - October 2019. There are no reasonably available alternative sites in this area of search at lower risk of flooding than the application site. The flood risk sequential test is passed. The exceptions test is required. NPPF paragraph 178 requires "The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall."

10.43. The actual flood risk is restricted to small parts of the site along the on site ditches and three small areas at medium risk of surface water flooding. The indicative site layout shows it is possible to locate housing in areas at low risk of river and sea flooding. Flooding in areas at medium risk of surface water flooding would be

prevented by reprofiling the land to remove the depressions in the land. The flood maps show that the development site is not considered to be at risk from reservoir flooding during normal river conditions but is at risk if there is a combined failure of the local reservoir defences when there is a major fluvial flood event in the local region. However, the likelihood of both these events occurring concurrently is remote and consequently the risk to the development from reservoir flooding is considered to be low and acceptable. Now that the flood risk is understood to be relatively minor, the proposal must provide sustainability benefits to the community that outweigh this risk to pass part a of the exceptions test. The proposal would provide two children's play areas that would be accessible to existing residents. Furthermore, it would provide new bus stops near the site frontage and contributions towards an enhanced bus service which would benefit existing residents. The proposal would also provide a shared cycle and pedestrian route along the site frontage and extending eastward to the junction with Fir Tree Lane as well as cycle route contributions to a wider scheme aiming to connect the village with Selby. These benefits ensure part a of the exceptions test is passed. With regard to part b of the exceptions test, the development will be safe for its lifetime, noting this is a 'more vulnerable' development, because the mitigation measures in the flood risk assessment propose removal of depressions that may suffer from surface water flooding. Furthermore, the indicative drainage details show it will be possible to secure a site wide drainage scheme that drains to an attenuation pond with sufficient capacity to prevent increasing flood risk elsewhere. It will be possible to ensure no dwellings are immediately adjacent to the on site ditches which may pose a residual risk. The road and footway crossing over the ditch in flood zone 3 is unlikely to flood and if it does, alternative means of access is available for the northern portion of the site. Residual risk from on site drainage infrastructure can be managed by either adoption of the infrastructure or management and maintenance details which can be secured by condition. Part b and the whole exceptions test is passed.

10.44. NPPF paragraph 182 requires sustainable drainage systems are incorporated into the development. Requirement H3 of the Building Regulations establishes a preferred hierarchy for disposal of surface water. Consideration should firstly be given to soakaway, infiltration, watercourse and sewer in that priority order. Surface water drainage options are discussed within the flood risk assessment. Soakaways have been shown by infiltration testing to be unviable. There are two open drainage ditches lying within the application site. It is therefore considered that the surface water run-off will discharge to one or both of these drainage ditches. The southern drain (Town Dike) lies under the jurisdiction of Selby Area Internal Drainage Board and consequently formal consent to discharge to this watercourse would be required from the IDB. The proposed surface water design discharge rate is 7.7l/s. For this development it is proposed that the volume of storage required to accommodate the peak flow from the 1 in 30 storm event will be stored within the below-ground drainage network, with the additional volume required to accommodate the peak flow from the 1 in 100 probability storm event, plus climate change, will be stored in a detention basin. Road drainage will need to pass through a filter drain prior to the outfall to prevent the risk of pollutants being discharged to the watercourse. Foul water is proposed to be disposed of by pumped rising main to the Yorkshire Water public foul sewers located within the public highway to the east in The Fir Trees. The

final foul and surface water drainage design will be conditioned given the outline nature of the application.

10.45. The LLFA has considered the proposal and additional technical note regarding drainage and raises no objection subject to conditions. These have been simplified. Yorkshire Water recommends a series of conditions. The Selby Area IDB advises its consent is required to discharge surface water to an ordinary watercourse and would be restricted to 1.4 litres per second per hectare or greenfield runoff. Its recommended conditions have been simplified and amalgamated with other drainage conditions. Flood risk, drainage and climate change matters are acceptable subject to conditions.

Access, Transport and Highway Safety

10.46. Relevant policies include Core Strategy Policy SP15 which requires the proposal to minimise traffic growth by providing a range of sustainable travel options (including walking, cycling and public transport) through Travel Plans and Transport Assessments and facilitate advances in travel technology such as Electric Vehicle charging points, and make provision for cycle lanes, cycling facilities, safe pedestrian routes and improved public transport facilities. The following policies are also relevant: Core Strategy Policy SP19, Selby District Local Plan Policies ENV1, T1, T2, T7 and CS6. The latter states "The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development" including traffic calming, footpath and cycleway links.

10.47. NPPF paragraph 109 requires transport issues should be considered from the earliest stages of development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve: ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places; understanding and addressing the potential impacts of development on transport networks; realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated; identifying and pursuing opportunities to promote walking, cycling and public transport use. NPPF footnote 9 requires consideration of paragraph 110 which states requires the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

10.48. Paragraph 115 requires sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on

highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach. Paragraph 116 states “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, following mitigation, would be severe, taking into account all reasonable future scenarios.”

10.49. Paragraph 117 requires development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.

10.50. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.

10.51. The application form confirms approval is sought for access matters to the site but not within the site. The latter forms a reserved matter. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access as: “in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;”

10.52. The main vehicular access to the site is proposed from Leeds Road via a priority junction with limited road widening of Leeds Road and a shared cycle/footway leading to the east. The main access will be 6m wide with a 2m wide footway to the west along Leeds Road and a 3m wide shared pedestrian and cycle way to the east that discharges cyclists onto the carriageway then narrows to 2m on the approach to Fir Tree Lane. Three traffic islands and two new bus stops are proposed along the site frontage. A detailed layout drawing of these elements has been provided. Visibility and swept path analysis for refuse vehicles has been submitted. Separate pedestrian/cycle access is proposed in indicative fashion further east along Leeds Road. Pedestrian, cyclist and emergency vehicle access is proposed in indicative fashion via The Fir Trees.

10.53. The LHA considers the main access to the site and broader highway implications of the proposal to be acceptable. The LHA seeks £1350 per dwelling towards the provision of an offsite walking and cycling link between Thorpe Willoughby and Selby as set out in the North Yorkshire County Council and Selby District Council Local Cycling and Walking Infrastructure Plan. The aim is to provide infrastructure improvements to mitigate the impacts of the development upon the existing highway from additional trips and to encourage sustainable transport. The sums would be used towards implementation of the cycle strategy for Selby the fundamental aim of which is to provide key safe routes to reduce congestion in the town centre. This would encourage residents of the development to avoid using their cars for journeys into Selby through the congested Gowthorpe junction. The request is considered to

be compliant with section 122 of The Community Infrastructure Levy Regulations 2010 (as amended).

10.54. The LHA seeks contributions of £1266 per dwelling towards bus service enhancements in proximity to the site to improve the offer to residents, including Sunday and evening services. This would enhance the sustainability credentials of the proposal in an area with bus services that are somewhat lacking and is considered to be compliant with section 122 of The Community Infrastructure Levy Regulations 2010 (as amended). A travel plan monitoring fee of £2500 is also required. This is distinct from the requirement for two new bus stops near the site which is appropriate to allow future residents reasonable access to such facilities.

10.55. Conditions are recommended to secure details of bus stop locations and designs on Leeds Road; delivery of highway infrastructure within the site; off site highway works; visibility splays at Leeds Road; further access details; travel plan (the submitted TP is not entirely acceptable); and construction management plan.

10.56. Active Travel England is content with the development proposed.

10.57. There are no harmful impacts upon the highway network as a result of the proposal. The series of conditions and developer contributions would secure appropriate details and enhancements to promote sustainable travel. The highway implications are acceptable.

Impact upon Nature Conservation, Protected Species and Ancient Woodland

10.58. Local Plan Policy ENV1 requires account is taken of the potential loss, or adverse effect upon, significant wildlife habitats.

10.59. The foreword to Core Strategy Policy SP2 states the protection and enhancement of biodiversity and natural resources is a basic principle of national planning guidance, which can also influence the location of development. Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by promoting effective stewardship of the District's wildlife by a) safeguarding international, national and locally protected sites for nature conservation, including SINCs, from inappropriate development. b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

10.60. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 193 requires when determining planning applications, local planning authorities should apply the following principles: a) 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; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Natural England and Forestry Commission 'standing advice' for ancient woodland emphasises this policy and requires consideration of direct and indirect effects. The advice notes the latter includes "increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland or tree root protection areas; and increasing damaging activities like….the impact of domestic pets".

10.61. The development plan policies are consistent with the NPPF and are given significant weight.

10.62. The Ecological Appraisal considers the proposals will not result in any negative effects on designated sites or any notable or protected habitats within the specified zone of influence. With the exception of native hedgerows, ditches and mature trees, which are local and national priority habitats, the majority of habitats within the site are of low or negligible ecological importance. The majority of existing native hedgerows and mature trees will be retained, and additional hedgerow and native tree planting is indicated within proposals. Ditches will be retained and protected during construction and enhanced via management to develop bankside and marginal vegetation. The biodiversity value of the habitats at the site pre- and post-development have been calculated using the DEFRA Biodiversity Net Gain 4.0 Metric. The proposals will result in over 10% net gain in habitat, hedgerow, and watercourse units. Details are included within the submitted Biodiversity Net Gain Strategy Report which should be read in conjunction with the Ecological Appraisal. The assessment identified bats, breeding birds, roosting barn owl, reptiles and water vole as important ecological features which have the potential to be affected by proposals or warrant consideration due to the legal protection afforded them. Additional surveys were undertaken throughout the spring and summer of 2023, and as such the above list of ecological features is preliminary in nature. Results of the surveys will be submitted in standalone reports, which will include updated assessment of impacts and any mitigation, if required. Residual impacts are expected to be at least neutral following implementation of mitigation and/or compensation measures. Signs of occasionally roosting barn owl Tyota alba were found within Building 3. No nests were identified. Section 5 sets out measures to minimise disturbance to barn owl during works. Permanent provision for barn owls will be included as part of the development. Impacts will be minimised through careful control of construction activities through an industry best practice CEMP. As a result, all other predicted effects on important ecological features are not anticipated to be significant.

10.63. The NYC Ecologist considers the suite of additional ecological surveys are required before drawing any conclusions; that a definitive BNG calculation will be required at

reserved matters stage; and that the conclusions regarding Brayton Barff SINC and ancient woodland are not credible and that there would be a negative impact due to significant net increase in footfall on the Barff as a result from the proposed development. The NYC Ecologists advice is that further housing development within easy reach of Brayton Barff is likely to increase degradation of ancient woodland contrary to NPPF policies, unless a strategic solution is pursued. Strategic measures, which may be difficult to deliver effectively on a site-by-site basis, might include creation of new community woodland to buffer Brayton Barff and spread recreational pressure over a wider area and/or provision of a large new adventure play facility which would divert activities like BMX riding away from the woodland.

10.64. The applicant responded to the NYC Ecologists comments via email dated 25/7/2023 rebutting the suggestion the proposal would have a negative impact upon Brayton Barff. In turn, the NYC Ecologist rebutted the applicant's comments.

10.65. The applicant subsequently submitted an Ecological Impact Assessment which incorporates the aforementioned suite of ecological surveys. The NYC Ecologist considers the EcIA is comprehensive and helpfully collates the findings of various ecological surveys which have been completed since the initial Ecological Appraisal was produced. All appropriate surveys have now been completed. The LPA Ecologist maintains the proposal would result in a further increase in footfall, exacerbating existing pressures. They reiterate the need for the Council to consider strategic solutions which would divert recreational pressure away from the ancient woodland. The LPA Ecologist is unconvinced by the conclusion that mitigation proposed in the EcIA would reduce impacts on farmland birds to neutral. The bird survey report offers no meaningful mitigation for species of open farmland and that this needs to be addressed. Where on-site measures would not suffice, off-site measures may need to be considered. The installation of generalist bird nest boxes is not supported. Regarding bats, the installation of suitable boxes/tubes in 15 of the new houses would provide better than like-for-like replacement habitat, which would be acceptable. Regarding water vole, the retention of ditch 2, its protection during construction, a 7m buffer around it and enhancement of marginal vegetation are welcomed. The effect of increased disturbance and predation by domestic pets remains a concern, and the Ecologist questions the reported significance of the effect because predation and disturbance could result in the loss of a population of legally protected priority species. More robust mitigation measures than those proposed need to be considered. Should the council be minded to approve this application, the Ecologist would recommend conditions for a Construction Environmental Management Plan (CEMP), Landscape & Ecology Management Plan (LEMP) and updated Biodiversity Net Gain assessment be submitted at reserved matters stage, as set out in section 6.4 of the EcIA.

10.66. The applicant provided a response to the NYC Ecologists comments. They consider corn bunting unlikely to be breeding on site; grey partridge are possible breeders rather than probable breeders. Therefore the applicant disagrees that off site bird mitigation is required. They agree to remove suggested generalist cavity nest boxes from the proposal. Installation of 15 suitable bat boxes/tubes in 15 of the new houses would be acceptable. They consider water vole impacts acceptable because they do not agree that the effect of increased disturbance and predation resulting from the

proposed scheme would be considered significant at a Local level, and based on proposed modification of the habitat management regime to make this Dike more suitable for water vole. They wish to await the outcome of an appeal in Brayton to determine impacts on Brayton Barff.

10.67. The NYC Ecologist agrees there is no need for off-site bird compensation; emphasises the need to protect any remaining water vole populations even if the results of a single-season survey indicate a low level of activity and suggest a condition to re-survey prior to commencement and review mitigation measures accordingly.

10.68. Overall, the proposal would not give rise to harm to statutory nature conservation sites and no habitat regulations screening is required. Following submission of clarification, corn bunting and grey partridge require no further consideration. Bat tubes or boxes and a method statement for bat roost loss mitigation would form part of the ecological mitigation condition. A further water vole survey to accompany the reserved matters application is required by condition along with appropriate mitigation; and a s106 provides for off-site enhancements for the benefit of water vole in the event they are recorded in the survey given LPA Ecologists concerns about long term survival of any population on a housing estate. Construction phase ecological mitigation measures can be secured as part of the general ecological mitigation and enhancement condition. The same condition would also secure 10% biodiversity net gain and ecological management for 30 years. Following the Inspectors findings in the aforementioned Brayton appeal decision regarding the impacts of residential development upon Brayton Barff SINC and ancient woodland, which note the lack of an evidential base for the LPA to quantify harm to these sites, and given the fairly removed location of the proposal in relation to it, the appropriate response is to ensure appropriate on site open space is provided to provide an alternative walking route near the dwellings. The design parameter plan shows circular walking routes can be achieved through the estate and longer circular routes can be walked through the various entrances to the development into the surrounding road network. The immediate surroundings of the site do not enable immediate connection to public rights of way or other open spaces. Subject to conditioning the parameter plan there is not considered to be any harmful impact upon the SINC and ancient woodland.

10.69. The proposal demonstrates ecological and protected sites impacts are acceptable in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP2 and SP18 of the Core Strategy, the NPPF and the standing advice of Natural England.

Affordable Housing

10.70. Policy SP9 Affordable Housing seeks to achieve a 40/60% affordable/general market housing ratio within overall housing delivery; in pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more; the tenure split and the type of housing being sought will be based on the Council's latest evidence on local need; and an appropriate agreement will be secured at the time of granting planning permission to

secure the long-term future of affordable housing. The actual amount of affordable housing, or commuted sum payment to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

10.71. The Developer Contributions SPD (2007) contains a section called “affordable housing for local needs” which is considered to have been superseded by the Affordable Housing Supplementary Planning Document (2014). The Affordable Housing SPD states “1.4 The latest Strategic Housing Market Assessment (2009) (“SHMA”) identifies the scale of need for affordable housing in the District over the Local Plan period. The SHMA establishes an overall target of 30-50% intermediate housing and 50-70% social rented housing. To meet identified need, affordable housing needs to be the right kind of housing in the right locations. Following the introduction of the Government’s Affordable Rent category, the Council will be gathering evidence to establish the identified need and tenure split of rented housing. This will be set out through a combination of this SPD, future Strategic Housing Market Assessments (SHMAs) and future development plan documents (as appropriate).…….6.3 Negotiations on affordable housing provision on specific sites will also be informed by any further up to date evidence, which will include the latest Strategic Housing Market Assessment (SHMA), current information from the Selby District / North Yorkshire Housing Register, and evidence of existing affordable housing provision in the locality, including the Census 2011.”

10.72. There is a Strategic Housing Market Assessment Update dated February 2019 but this has been overtaken by the more recent Housing and Economic Development Needs Assessment October 2020. Pages 13-15 and 125 of the HEDNA state:

- “When looking at the need for affordable homes to rent, we suggest a need for 141 affordable homes per annum.”
- “The majority of the rented need is for social rented housing, although there is also a role for affordable rent.”
- “It is not recommended that the Council have a rigid policy for the split between social and affordable rented housing.”
- “There are some households likely to be able to afford to rent privately but who cannot afford to buy a suitable home. However, there is also a potential supply of homes within the existing stock that can contribute to meeting this need. It is thus difficult to robustly identify an overall need for affordable home ownership products.”
- “If the Council does seek to provide 10% of housing as affordable home ownership (the default figure suggested in the NPPF), then it is suggested that shared ownership is the most appropriate option. This is due to the lower deposit requirements and lower overall costs (given that the rent would also be subsidised).”
- “There is no basis to increase the provision of affordable home ownership above the 10% figure currently suggested in the NPPF and indeed does provide evidence that the 10% figure could be challenged if the Council wished to do so.”
- “However, it does seem that many households in Selby are being excluded from the owner-occupied sector. The analysis would, therefore, suggest that a

key issue in the District is about access to capital (e.g. for deposits, stamp duty, legal costs) as well as potentially mortgage restrictions (e.g. where employment is temporary) rather than simply the cost of housing to buy." (page 125).

10.73. NPPF paragraph 65 permits affordable housing to be sought on major developments such as this. NPPF footnote 9 requires consideration of Paragraph 66 which expects that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Footnote 31 states "The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need."

10.74. Policy SP9 provides a broad basis for securing affordable housing and is consistent with the NPPF. The Selby Local Plan and CIL Viability Assessment (August 2022) indicates 20% affordable housing should be sought for this area.

10.75. The purpose of the Viability Assessment (August 2022) was to measure the viability of the Selby Local Plan as a whole and made numerous assumptions including revocation of CIL and the introduction of new policies that would have had a financial impact upon the delivery of sites and their deliverability. As the Emerging Selby Local Plan has now been halted, no weight can be given to this document and affordable housing requirements should revert back to the extant policy requirement.

10.76. However, a number of recent appeal decisions have made reference to the Viability Assessment as evidence that has some weight in decision making purposes and is therefore a material consideration. The weight to be given to the Viability Assessment will differ on a case-by-case basis as part of the wider assessment of material considerations.

10.77. Affordable housing and viability matters were explored in an appeal decision dated 30th January 2025 for a site in Hambleton reference APP/U2750/W/24/3347885 (appendix C). The Inspector set out:

- The maximum 40% affordable housing in Policy SP9 is derived from an assessment in around 2009.
- However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (Selby Local Plan & CIL Viability Assessment (2022) to inform Policy HG7 in the emerging Selby Local Plan, and this says it considers a greenfield delivery of 20% affordable housing to be viable in this area of Thorpe Willoughby.
- Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report when compared to that informing the Core Strategy, the Inspector considered this report constitutes a material consideration to which was given significant weight in his assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks 'up to

a maximum' of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

- The appellants viability appraisal showed with an 18% profit, 10% affordable housing was viable. The Council considered 30% affordable housing was viable due mainly to differing opinions regarding gross development value and abnormal costs.
- Such appraisals involve subjective judgements. Neither is necessarily wrong. The appellants proposal of 10% would be in line with the Aspinall Verdi report. That report did not say 10% is the starting point for negotiations for a higher percentage. Such an approach would remove any certainty or confidence from the process.
- The Inspector favoured the appellants use of historic sales values from the specific settlement, adjusted by index linking, rather than those from nearby villages.
- The Inspector found in favour of the appellants approach to viability.
- The Inspector dismissed the Council suggestion that affordable housing levels be revisited at reserved matters stage because there would be no need to have undertaken such work at outline stage and in his opinion delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward.

10.78. The same matter was considered in an appeal decision dated 20th February 2025 (Appendix D) at land east of Broadacres, Mill Lane, Carlton reference APP/U2750/W/24/3347833. The Inspector considered "11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal where the Inspector Ref: APPU2750/W/24/3347885 considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved."

10.79. The application proposes 20% affordable housing in accordance with the Aspinall Verdi report. Affordable housing should be secured as percentages given the outline nature of the proposal means the final number of dwellings may change at reserved matters stage. The new NPPF does not require First Homes but it is possible for applicants to propose them. In light of the recent appeal decisions it is considered appropriate to accept the proposed 20% affordable housing because it aligns with the most up to date viability evidence that supported the now withdrawn emerging local plan. This is in accordance with Policy SP9.

10.80. Overall, affordable housing policy requirements are as follows:

- 20% of the total number of dwellings are to be affordable housing. Of these 25% can be First Homes. If the developer is unable to dispose of the FH units a legal clause will require other opportunities to be considered before they are disposed of on the open market. These are: An option for the Council to buy or nominate a purchaser. This is for the Council or said purchaser to utilise the unit as another form of affordable tenure, be that intermediate or rental; or the payment of an additional FH Charge at 30% of the market value of the property to the Council. This allows the property to be sold on the open market and the sum (30%) ring-fenced for the delivery of affordable housing in the locality by the Council. The overall split shall be 25% First Homes, 65% affordable rent and 10% shared ownership.

10.81. The applicant has agreed these percentages. A s106 agreement will secure this affordable housing.

Recreational Open Space

10.82. Policy RT2 requires the proposal to provide recreational open space at a rate of 60sqm per dwelling on the following basis “provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision. Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.”

10.83. The Developer Contributions Supplementary Planning Document 2007 provides further guidance on the provision of open space.

10.84. The NPPF at paragraphs 96 and 98 advises that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs for example through the provision of safe and accessible green infrastructure and the provision and use of shared spaces such as open spaces. Paragraph 103 reinforces the importance of access to open space, sport and physical activity for health and wellbeing. Policies should be based on robust and up to date assessment of needs and opportunities for new provision.

10.85. Policy RT2 is considered consistent with the NPPF and is given significant weight.

10.86. A proposal for 140 dwelling must provide 60sqm of open space per dwelling equating to 8,400sqm. The parameter plan shows open spaces to either side of the main access from Leeds Road with a play area on the western side, to the north of the retained dwelling, a central play area, areas adjacent to Town Dike and two areas around retained trees. The proposal provides the required amount of open space per dwelling.

10.87. The parameter plan would secure a local area for play (LAP) for toddlers and younger children near the centre of the site and a local equipped area for play (LEAP) to cater for slightly older children near the Leeds Road frontage. A s106 will secure

implementation, ownership and maintenance of play areas and all recreational open space. These matters are acceptable.

Contaminated Land and Ground Conditions

10.88. Policy ENV2 of the Local Plan states “Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.” Part B of the policy allows contaminated land conditions to be attached to permissions.

10.89. Core Strategy Policy SP18 seeks to protect the high quality of the natural and man-made environment by ensuring that new development protects soil, air and water quality from all types of pollution. This is reflected in Policy SP19 (k), which seeks to prevent development from contributing to or being put an unacceptable risk from unacceptable levels of soil or water pollution or land instability.

10.90. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 198 requires decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so Council’s should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 199 requires decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

10.91. These development plan policies are consistent with the NPPF and are given significant weight.

10.92. The Preliminary Geoenvironmental Investigation shows that the site currently comprises arable farmland, a farmyard on the western boundary, and a vacant farmhouse in the south of the site. The site walkover survey identified various barns, garages, tanks, silos and storage areas (including stockpiles of asbestos cement sheeting, mixed gravel and tarmac rubble) within the farmyard area. The report states that no significant contamination is anticipated, but there is likely localised contamination associated with agricultural activity around the farmyard and buildings. Contaminants of concern include asbestos, metals, pesticides/fertilisers, PAHs, and fuels/oils. The report recommends a ground investigation comprising the excavation of around 40 trial pits / boreholes within the site boundary. 10 of these will be targeted on the made ground in the farmyard and farmhouse area to determine the nature,

degree, and extent of any contamination. The remaining trial pits will be dug at a nominal 45m grid spacing across the site. Samples of topsoil and made ground will be taken for chemical analysis. On completion, a report will be issued containing the site investigation results and the associated risk assessment with respect to both controlled waters and human health. The Council's contaminated land consultant advises the report and recommendations are acceptable. Conditions are recommended regarding investigation of contaminated land; submission of a remediation strategy; verification of remediation works; and reporting of unexpected contamination.

10.93. In light of the above and subject to suitable conditions, it is considered that the proposal would not breach Convention rights contained in the Human Rights Act 1998 in terms of the right to health and right to private and family life.

Residential Amenity

10.94. Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1. Significant weight is given to this policy as it is broadly consistent with NPPF paragraph 135 (f) which seeks to ensure a high standard of amenity for existing and future users.

10.95. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

10.96. The application site is located in the countryside to the north west of Thorpe Willoughby and there are residential dwellings to the east and south. It will be possible at reserved matters stage to ensure a layout, scale and appearance of proposed dwellings that has appropriate separation distances between each other and to existing dwellings and their gardens on Pine Tree Close, Fir Tree Way, The Fir Trees and Fordlands. The same is true of the dwelling Meadow View which is almost surrounded by the application site. The residential amenity of residents of dwellings on the southern side of Leeds Road would not be harmed by the proposal due to the ample separation distances.

10.97. The submitted odour assessment demonstrates the pig farm to the west would have a not significant impact. The proposed land use is considered compatible with surrounding land uses. No harm would arise to residential amenity from the traffic generated by the proposal. Construction disturbance would be minimised by construction management plan, development hours and piling conditions as recommended by Environmental Health.

10.98. On this basis it is considered that the scheme is acceptable in terms of the residential amenity impacts and accords with Policy ENV1 and the NPPF.

10.99. In light of the above, it is considered that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

Archaeology

10.100. Policy ENV28 requires that where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/evaluation to be submitted as part of the planning application; where development affecting archaeological remains is acceptable in principle, the Council will require that archaeological remains are preserved in situ through careful design and layout of new development; where preservation in situ is not justified, the Council will require that arrangements are made by the developer to ensure that adequate time and resources are available to allow archaeological investigation and recording by a competent archaeological organisation prior to or during development.

10.101. NPPF paragraph 207 requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The development plan policy is consistent with the NPPF and is given significant weight.

10.102. Following submission of a geophysical survey the LPA archaeologist does not require further archaeological investigation and raises no objections to the proposal. Archaeological impacts are acceptable.

Noise and Air Pollution

10.103. The policies referred to in the contaminated land section above are relevant.

10.104. Environmental Health initially recommended a noise assessment and mitigation is conditioned in relation to railway and road noise to ensure appropriate garden and internal noise levels are achieved. However, the parameter plan and illustrative masterplan locates dwellings in close proximity to both noise sources. Therefore, the noise assessment has been submitted prior to determination. It concludes the site is suitable for noise-sensitive residential development, provided that a commensurate level of protection against noise is incorporated into the design of the development to secure an acceptable degree of amenity for the future residents. A condition secures appropriate noise mitigation measures at reserved matters stage.

10.105. Environmental Health also recommend a condition to control the cumulative level of sound from the development at nearby sensitive receptors if air source heat pumps are to be used as part of the as yet unknown energy strategy. However, this condition is considered unnecessary because there are permitted development rights for such installations at domestic properties and restricting their use in this way is considered unreasonable. Environmental Health note the site may increase vehicle trips through Air Quality Management Area 1 at New Street Selby and that no air quality assessment is provided. It notes there is a lack of proportionate mitigation in the application such as electric vehicle charging provision. Therefore, it

recommends an AQMA mitigation condition. However, the Building Regulations now require dwellings to have EV charging points. Furthermore, the proposal secures contributions towards bus service improvements and cycle infrastructure. All of which will mitigate the impact on air quality thus making the condition unnecessary.

10.106. Noise and air pollution matters are acceptable subject to such conditions.

10.107. Subject to the above and suitable mitigation through reserved matters approval and planning conditions, it is considered that the proposal would not breach Convention rights in the Human Rights Act 1998 in particular the right to health and the right to private and family life.

Developer Contributions

10.108. Local Plan Policy ENV1 requires account is taken of the capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure.

10.109. Policy CS6 states “The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development”.

10.110. Policy SP12 requires where infrastructure and community facilities are to be implemented in connection with new development, it should be in place or provided in phase with development and scheme viability. They should be provided on site, or if justifiable they can be provided off site or a financial contribution sought. Opportunities to protect, enhance and better join up existing Green Infrastructure, as well as creating new Green Infrastructure will be strongly encouraged, in addition to the incorporation of other measures to mitigate or minimise the consequences of development. This will be secured through conditions or planning obligations.

10.111. The Developer Contributions SPD provides further guidance regarding contributions towards waste and recycling facilities; education facilities; and primary health care facilities amongst others.

10.112. NPPF paragraph 34 requires plans to set out the contributions expected from development. Paragraph 100 confirms “It is important that a sufficient choice of early years, school and post-16 places are available to meet the needs of existing and new communities.” Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requires planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

10.113. These development plan policies are consistent with the NPPF and are given significant weight.

10.114. NYC Children and Young People's Service consider there will be sufficient capacity for Thorpe Willoughby Community Primary School to accommodate children from the development. It estimates there will be insufficient capacity at Selby High School to accommodate children from the development. It requests £475,329.40 to be used for school expansion places at the named school or another serving the development. This amount to £3,395.21 per dwelling with two or more bedrooms.

10.115. It seeks contributions towards costs of providing educational facilities at Selby Special School and/or another school with Special Educational Needs and Disabilities provision serving the locality of the development of £106,344.00. This amounts to £759.60 per dwelling with two or more bedrooms.

10.116. It estimates there will be insufficient capacity at nearby early years settings to accommodate children from the development. It seeks contributions to be used for early years provision serving the locality of the development of £56,970.00. This amounts to £406.92 per dwelling with two or more bedrooms.

10.117. NHS Humber and North Yorkshire Integrated Care Board confirms the existing GP practice, Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch, does not have capacity to accommodate any additional growth resulting from the proposed development. A contribution of £165,024.00 based on 140 dwellings is requested. The S106 contribution secured from this development would fund works at the named practice and/or contribute towards a new development related to the Primary Care Network (PCN) that will accommodate the additional population created by the proposed development. Payment should be made before the development commences. This amounts to £1,178.74 per dwelling.

10.118. The Developer Contributions SPD requires a S106 agreement requiring the developer to pay for 4 x 240 litre wheeled bins at a price of £65 per dwelling.

10.119. These contributions are justified and CIL regulation compliant and would need to be secured by s106 with appropriate triggers for payment.

Railway Implications

10.120. Network Rail raises no objection in principle. It considers the private level crossing at Harry Moore Lane may be used by residents that mistakenly believe there is a public right of way; trespass by unauthorised users is a criminal offence and highly dangerous for the individuals concerned as well as a huge risk to operational railway safety which it would find to be unacceptable; and that conditions should require measures including changes to the level crossing gates to palisade gates, as well as erecting signage on the approach from Harry Moore Lane to the level crossing. Such signage shall state that there is no public right over the level crossing and must be visible at all times. Conditions are recommended regarding construction methodology, drainage, trespass proof fencing, vehicle incursion measures, landscaping and lighting. It considers every endeavour should be made to provide soundproofing to dwellings.

10.121. There is already a sign at the start of Harry Moore Lane confirming the road is private and there is a further sign on the level crossing gate stating private no public right of way which is visible at all times. Changing the crossing gate to a palisade gate would not prevent unlawful access. Therefore, such a condition is unnecessary. The construction methodology and drainage conditions are included. Environmental Health recommended conditions to address noise. Trespass proof fencing is unnecessary because there is already one in place. Vehicle incursion measures, landscaping and lighting can be dealt with at reserved matters stage. Railway matters are acceptable subject to such conditions.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

11.2. However, the Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.3. Adverse impacts include the modest scale of loss of best and most versatile agricultural land which would result in minor harm to the agricultural economy in the area as well as food self-sufficiency; moderate adverse localised landscape and visual effects; and conflict with the development plan.

11.4. Neutral matters include the lack of conflict with mineral policies; the indicative housing density is appropriate; the flood risk sequential and exceptions tests are passed, the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or

capacity issues; there would be no harm to protected species following mitigation or designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; education, healthcare and bin contributions are secured to ensure no detriment is caused; and there would be no harm to the railway.

11.5. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a significant contribution to needed market and affordable housing (great weight it given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems and those that want to self or custom build their own home; the scheme will deliver a section of shared foot and cycle way linking the village to Selby, new bus stops and provide contributions to enhance bus services which benefits existing and future residents; 10% biodiversity net gain and ecological enhancements are secured; provision of open space and play areas that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

11.6. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior agreement of a s106 agreement.

12.0. RECOMMENDATION

12.1 It is recommended that planning permission be granted subject to prior agreement of a section 106 agreement securing the matters listed below and the conditions listed below:

S106:

- In the event the further water vole survey, as secured by planning condition, shows water vole are present on the site, an area for off-site enhancements for the benefit of water vole shall be secured given the impact of two crossings over Town Dike on their habitat and the implications on long term survival of any population on a housing estate due to predation by domestic pets and disturbance.
- 20% of the total number of dwellings are to be affordable housing. Of these 25% can be First Homes. If the developer is unable to dispose of the FH units a legal clause will require other opportunities to be considered before they are disposed of on the open market. These are: An option for the Council to buy or nominate a purchaser. This is for the Council or said purchaser to utilise the unit as another form of affordable tenure, be that intermediate or rental; **or** the payment of an additional FH Charge at 30% of the market value of the property to the Council. This allows the property to be sold on the open market and the sum (30%) ring-fenced for the delivery of affordable housing in the locality by the Council. The overall split shall be 25% First Homes, 65% affordable rent and 10% shared ownership.
- 3% of the total number of plots to be self or custom build dwellings.
- Implementation, ownership and maintenance of play areas and all recreational open space.

- £1350 per dwelling towards the provision of an offsite walking and cycling link between Thorpe Willoughby and Selby.
- £1266 per dwelling towards bus service enhancements in proximity to the site to improve the offer to residents, including Sunday and evening services.
- £2500 travel plan monitoring fee.
- £475,329.40 to be used for school expansion places at Selby High School or another serving the development. This amount to £3,395.21 per dwelling with two or more bedrooms.
- £106,344.00 towards Selby Special School and/or another school with Special Educational Needs and Disabilities provision serving the locality of the development. This amounts to £759.60 per dwelling with two or more bedrooms.
- £56,970.00 towards early years provision serving the locality of the development. This amounts to £406.92 per dwelling with two or more bedrooms.
- £165,024.00 to fund works at Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch and/or contribute towards a new development related to the Primary Care Network (PCN) that will accommodate the additional population created by the proposed development. This amounts to £1,178.74 per dwelling.
- 4 x 240 litre wheeled bins at a price of £65 per dwelling.

Conditions:

1. Details of access (within the site), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

3. Unless otherwise amended under the conditions below, the development shall be in accordance with drawings P22-3091_0101 (site location plan) and 01-100-P-002 Rev C (engineering layout), and the reserved matters shall reflect the form of development shown on P22-3091_0103 (design principles parameter plan).

Reason: For the sake of clarity and in the interests of proper planning.

4. No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:
a) The points of access to be used.
b) The area for loading/unloading plant and materials.

c) The area for storing plant and materials.
d) Any security hoarding around or within the site.
e) Wheel washing facilities.
f) Measures for controlling the emissions of dust.
g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.
h) The positioning of any gates to the site.
i) External lighting.
j) The hours of working and deliveries.
k) An assessment of potential construction impacts upon the ground water source protection zone and mitigation measures.

The development shall then be implemented in accordance with the approved details and timetable.

Reason: In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment in pursuance of Policy ENV1 of the Selby District Local Plan.

5. If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure the orderly delivery of development in pursuance of Policy ENV1 of the Selby District Local Plan.

6. The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the Local Planning Authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall be carried out in accordance with the approved details.

Reason: To ensure a mixed and balanced community is created in pursuance of Policy SP8 of the Core Strategy and the Housing and Economic Development Needs Assessment (HEDNA) (October 2020).

7. Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

Reason: To secure appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in pursuance of Policy ENV1 of the Selby District Local Plan.

8. Accompanying the Reserved Matters, engineering details of the emergency vehicular, pedestrian and cycle access to The Fir Trees and the pedestrian/cycle link to Leeds Road opposite Privet Drive as indicated on the Design Principles Parameter Plan P22-3091_0103 shall be submitted to and approved in writing by the Local Planning Authority. In the case of the emergency access, this shall include details and measures to restrict its use to emergencies, pedestrians and cyclists only, along with a timetable for the implementation of those details and measures and a scheme for their intended management. The details and measures relating to the emergency access shall then be installed in accordance with the approved timetable and the emergency access shall thereafter be retained and managed in accordance with the approved management scheme.

Reason: To secure a permeable development with appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all users in pursuance of Policy ENV1 of the Selby District Local Plan.

9. Prior to the first use of the access to the site off Leeds Road, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.

Reason: In the interests of highway safety in pursuance of Policy T2 of the Selby District Local Plan.

10. No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.

Reason: To secure a development with appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all users in pursuance of Policy ENV1 of the Selby District Local Plan.

11. Notwithstanding the approved details, prior to the first occupation of any dwelling hereby permitted, details of the location and design of a new west bound bus stop and east bound bus stop on Leeds Road shall have been submitted to and approved in writing by the Local Planning Authority. The details approved shall be completed prior to the first occupation of any dwelling hereby permitted.

Reason: To encourage sustainable transport options in pursuance of Core Strategy Policy SP15.

12. Prior to the first occupation of any dwelling hereby permitted, the off-site highway works detailed on approved plan 01-100-P-002-C (engineering layout) shall have

been completed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To secure a development with appropriate roads, footways and cycleways constructed to an adoptable standard and to encourage sustainable transport options in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

13. Prior to the first occupation of any dwelling hereby permitted, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include: -

- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
- a programme for the delivery of any proposed physical works;
- effective measures for the on-going monitoring and review of the travel plan;
- a commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;
- effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan.

Reason: To establish measures to encourage more sustainable non-car modes of transport in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

14. With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details that prevent environmental pollution in pursuance of Policy SP18 of the Core Strategy.

15. With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development in accordance with SUDS principles shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details in pursuance of Policy SP15 of the Core Strategy.

16. With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall

identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination in pursuance of Policy ENV2 of the Selby District Local Plan.

17. Development shall not commence until a construction methodology with regards to works in proximity to the railway has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved construction methodology.

Reason: In the interests of railway safety in pursuance of Policy ENV1 of the Selby District Council Local Plan.

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

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

19. With or before the submission of Reserved Matters a new water vole survey with mitigation measures, as appropriate, and a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. Mitigation shall be carried out in accordance with the approved details.

Reason: In order to protect water vole in pursuance of Policy SP18 of the Core Strategy.

20. With the submission of Reserved Matters, a Biodiversity Mitigation and Enhancement Strategy (BMES), including construction phase matters, shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be informed by the Ecological Appraisal May 2023, Ecological Impact Assessment September 2023 and Response to NY Ecology Comments 24th January 2024, and shall additionally include: a) an updated Biodiversity Net Gain Assessment showing 10% gain; b) a 30 year management and monitoring plan; and c) implementation timetable. The development shall be carried out and thereafter managed in accordance with the approved BMES.

Reason: In order to prevent harm to protected species and ensure net gain for biodiversity in pursuance of Policy SP18 of the Core Strategy.

21. With or before the submission of Reserved Matters, a written scheme for protecting the proposed noise sensitive development from noise shall be 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 55 dB LAeq (16 hours) 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 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. Construction work shall not begin until a written scheme for protecting the internal environment of the dwellings from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the building envelope of each plot is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved shall 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 LAmax 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 of prospective residents and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE), Policy SP19 of the Core Strategy and Policy ENV2 of the Selby District Local Plan.

22. Accompanying the Reserved Matters, a detailed Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, including a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.

Reason: To secure incorporation of existing trees into the development in pursuance of Policy SP19 of the Selby District Local Plan.

23. The development shall be carried out in accordance with the flood mitigation measures detailed in the Flood Risk Assessment dated May 2023.

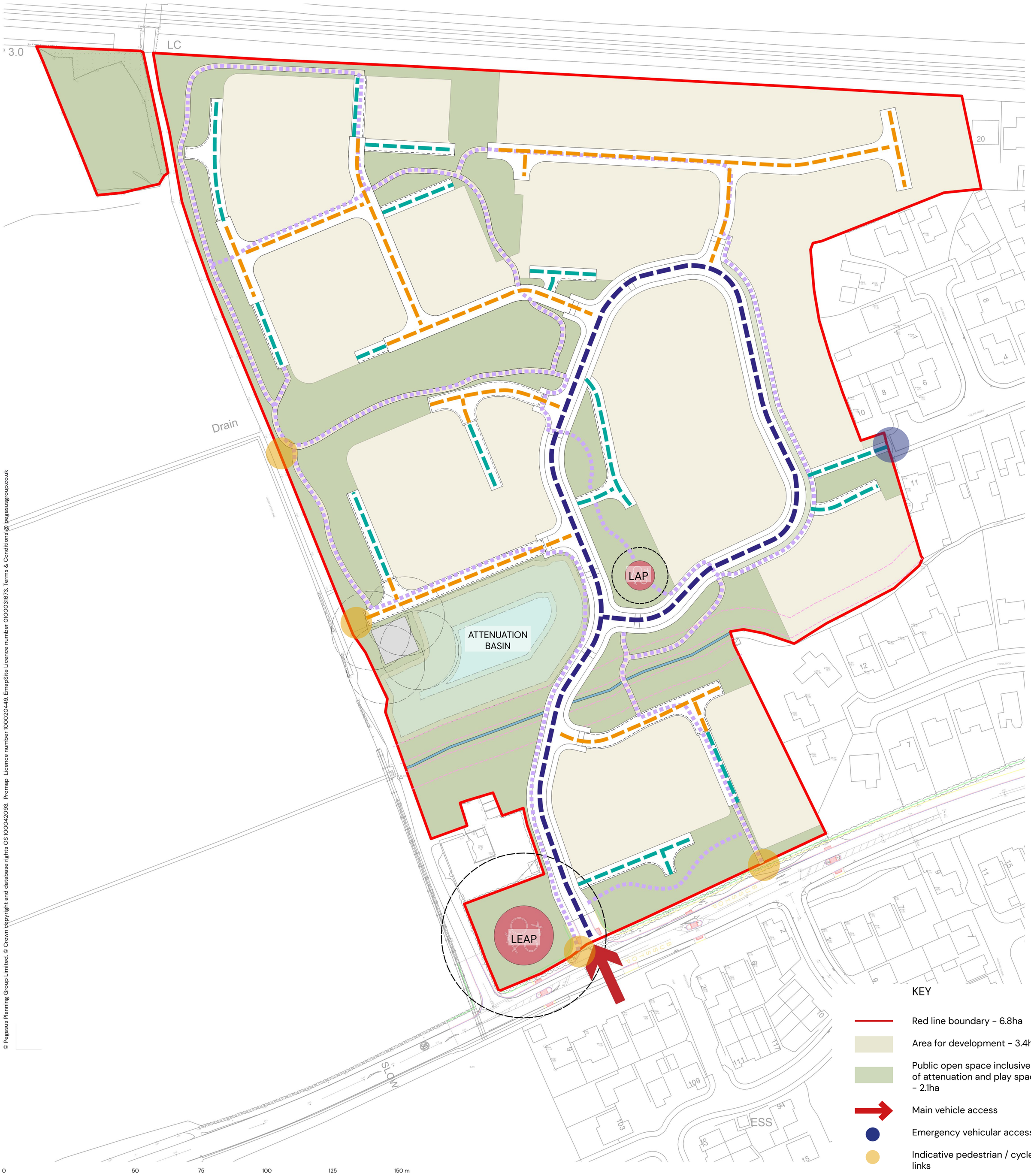
Reason: To ensure localised depressions in ground levels are removed to reduce flood risk in pursuance of Policy SP15 of the Core Strategy.

Target Determination Date: 2/5/2025

Case Officer: Martin Evans

Appendix A – Design Principles Parameter Plan
Appendix B – Illustrative Masterplan
Appendix C - Appeal decision APP/U2750/W/24/3347885 Hambleton
Appendix D – Appeal decision APP/U2750/W/24/3347833 Carlton
Appendix E – Location Plan

Issue:



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Land at Leeds Road, Thorpe Willoughby - Design Principles Parameter Plan

| PEGASUSGROUP.CO.UK | TEAM/DRAWN BY: MH | APPROVED BY: JB | DATE: 17/05/2024 | SCALE: 1:1000@A2 | DRWG: P22-3091_0103 | CLIENT: Hallam Land |

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AMENDED DRAWING

Revision	Date	Drawn by	Checked by
A - Amendments following client comments	14.09.23	BB	JSB
B - Addition of 5m buffer to central playspace	17.10.23	MH	BB
C - Addition of schedule with sqft	02.11.23	BB	JSB
D - Addition of walkable loops and health check	13.05.24	MH	JSB
E - 2m verge and distance check	17.05.24	MH	JSB

PEGASUS GROUP

LAND AT LEEDS ROAD, THORPE WILLOUGHBY | ILLUSTRATIVE MASTERPLAN

TEAM/DRAWN BY: BB/MH | APPROVED BY: JSB | DATE: MAY 2024 | SCALE: 1:1000 @A2 | DRAWING REF: P22-3091_0100 | REV: E | CLIENT: HALLAM

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Planning Inspectorate

Appeal Decision

Hearing held on 27 November 2024

Site visits made on 26 & 28 November 2024

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/U2750/W/24/3347885
Land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Hallam Land Management Ltd, Messrs T & M Hey and Mrs D Hey against North Yorkshire Council.
- The application Ref is 2022/0665/OUTM.
- The development proposed is the development of up to 156 dwellings and associated landscaping and infrastructure works.

Decision

1. The appeal is allowed and planning permission is granted for the development of up to 156 dwellings and associated landscaping and infrastructure works at land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG in accordance with the terms of the application, Ref 2022/0665/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. As originally submitted the proposal was to be for *'circa 156 dwellings'*. However, the description was changed while the application was being considered to that given above, to confirm that 156 dwellings would be the maximum.

3. This is an outline scheme with all matters but access reserved for later consideration. I have therefore treated any details relating to landscaping, layout, scale and appearance as illustrative but informative. Moreover, at this stage the principal access to the site only is being considered. However, access within the site will be determined at a later stage and, as they are influenced by the scheme's internal layout, details of the pedestrian and emergency accesses to Mill Lane will be considered through conditions.

4. Government guidance and policy are found in the *National Planning Policy Framework* (the Framework), and the version dating from December 2023 was in place when the appeal submissions were prepared and the Hearing held. On 12 December 2024 a revised version of the Framework was issued, which superseded the one from 2023, and it is against this 2024 version that I have considered the appeal.

5. At the time of the Hearing the Council had an emerging local plan called the *Selby Local Plan* (the eLP), which it was proposing to take forward to

examination. However, following the publication of the revised Framework, the relevant Council Committees have resolved that work be halted on the eLP. In the light of this, it can be afforded no appreciable weight in the decision-making process, as there is now great uncertainty as to whether the policies and allocations it contains will ever be part of the adopted development plan.

Main Issues

6. The main issues in this case are

   a) whether the development is acceptable in principle;

   b) its effect on the supply of agricultural land;

   c) its effect on the character and appearance of the area and heritage matters;

   d) whether this is a sustainable location;

   e) the impact on highway safety;

   f) the delivery of affordable housing,

   and, if any harm would be caused by any or all of the above,

   g) whether material considerations indicate a decision otherwise than in accordance with the development plan.

7. Of issues a) to f) only the last was raised as a point of contention by North Yorkshire Council (the Council), with the remainder arising through submissions from the Parish Council and local residents.

Reasons

The principle of the development

8. The Development Limits of Hambleton are defined in the *Selby District Local Plan* (the Local Plan), which was adopted in 2005 and is still in force. They mean that almost all of the appeal site lies adjacent to but outside of those limits, with only the access and the illustrative site for one dwelling shown as being within them.

9. Policy SP2A in the *Selby District Core Strategy* (adopted in 2013)(the Core Strategy) outlines the principles on which the location of further development will be based. Sub-section (b) of this policy says limited amounts of residential development may be absorbed inside Designated Service Villages, of which Hambleton is one. As nearly all of the site though is not *'inside'* the village (as defined by the Development Limits) this provision is not applicable. Instead, Core Strategy Policy SP2A(c) addresses development in the countryside (outside of Development Limits), and says it shall be restricted to a number of specified types. None of these apply to this scheme, so it would not be in accordance with that policy.

10. Core Strategy Policy SP5 aims to deliver 1000 houses *'in'* the 18 Designated Service Villages. However, this delivery was to be directed by a Site Allocations document that never came forward. Assuming this policy is

seeking to direct housing within the Development Limits or onto allocated sites, again this scheme does not fall under its terms.

11. Accordingly, I conclude that by being substantially outside of the Development Limits this scheme would be in conflict with Core Strategy Policy SP2.

The effect on agricultural land

12. Core Strategy Policy SP18 seeks to steer development to areas of least agricultural quality. The Framework then says there should be recognition of the economic and other benefits of best and most versatile farmland, which it defines as farmland in grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

13. The site at the moment comprises 2 large arable fields, with a complex of farm buildings in its north-western corner and meadow to the north. While it is agreed the site is within grade 3 of the ALC, it has not been confirmed whether it is of grade 3a or grade 3b standard.

14. If it falls in grade 3b, the details submitted seem to imply there are few areas in the District that are of a lesser quality, and so there would be no conflict with either Core Strategy Policy SP18 or the Framework. However, if it is in grade 3a there could well be grade 3b land elsewhere in the District and so a conflict would exist with Core Strategy Policy SP18. Moreover, taking it out of agricultural production means it could well be contrary to the Framework.

15. Accordingly, in the absence of any confirmation of the precise grade of this agricultural land, I conclude it has not been shown there would not be a conflict with Core Strategy Policy SP18 or the Framework.

Character and appearance

16. Core Strategy Policies SP18 and SP19 seek development that would protect the natural and historic environment and have regard to local character, including the open countryside. Local Plan Policy ENV1 highlights the need to consider the development in the light of features important to the character of the area.

17. The 2 fields that form the bulk of the site sit side-by-side, separated by a hedge, and run northwards from the site's southern boundary with Mill Lane. The complex of agricultural buildings at their northern end stand in a yard with equipment and apparatus associated with such a use, and they range from being relatively old and brick-built, to being large modern utilitarian structures. There is also the meadow, separated from the fields by broken planting, while the area subject of the appeal is substantially bounded by hedging of varying quality. As such, the site itself has a rural appearance that reflects that of the fields to the south.

18. While clearly the landscape around Hambleton is treasured by village residents and others, it is not a *'valued'* one under the terms of the Framework. Furthermore, it is not currently an area of tranquillity. There is a Locally Important Landscape Area (a LILA) around Hambleton Hough to the south-east. In the eLP the intention was to expand that up to the south side of Mill Lane, across the road from the development, but even if that were to occur it still would not extend into the appeal site.

19. Building a housing estate on what is now open fields and ancillary land in the countryside would be changing the rural nature of the site itself, and would be expanding the built form of the village, taking it outside of its existing visual edge that runs along the site's west side. In this regard there would be some conflict with the policies cited above. I am aware though that in localised views from Mill Lane to the south or from Gateforth Lane to the east, the site, although clearly agricultural, is seen very much in the context of the modern housing to the west, and this reduces any sense of encroachment into the countryside.

20. The Development Limits of the village come up to Mill Lane on the west side of the site and nearly to the lane to its east, but in between those they appear to run into the settlement. As a result, an area of countryside, as defined by the Development Limits, extends well into Hambleton, and this area, which comprises mainly the appeal site but includes a smaller field as well, is substantially surrounded on 3 sides by built form. Furthermore, Mill Lane and Westcroft Lane form a strong boundary along the southern side of the village. Therefore, while the scheme would constitute an expansion of the settlement into what the development plan defines as the countryside round Hambleton, when seen in the context of the wider landscape it would not be perceived as an undue expansion, or as reducing any gap to a neighbouring village. Rather, in my judgement it would be a logical extension to the existing built form.

21. Hambleton Hough, a little to the south, is one of 2 pronounced hills (along with Brayton Barff) in this otherwise relatively flat landscape. There is public access to the summit and, from there, there are extensive and exhilarating views over the surroundings. In those, Hambleton forms part of the patchwork of settlements and agricultural land that can be seen. It is apparent in the foreground as a relatively linear village near to, but separate from, both Hambleton Hough and the designated LILA.

22. Although the scheme would bring the village slightly closer to this hill and the current extent of the LILA, it would still be clearly and distinctly separate from both of them. Increasing the LILA in the manner proposed in the eLP would mean that designation would be nearer to the site than at present, but this would not result in a material change in the contribution the village makes to the landscape when seen from Hambleton Hough. I am unaware of the reasons behind the extension of the LILA, but I consider any benefit it had concerning Hambleton Hough and its setting would not be harmed by the development before me. Indeed, whilst houses to the west of the site back onto Mill Lane with their rear elevations close to the road, opportunity exists for the proposal to be an outward-facing scheme, with houses set a minimum of 20m back from the carriageway edge to maintain a softer boundary on this side.

23. In the eLP it was proposed to allocate this site for housing, with an indicative capacity of 128 dwellings, some 28 less than the maximum now proposed. However, I have little to show how the figure of 128 units was established. I accept too that, while the road layout on the illustrative plan accompanying this submission before me allows views to Hambleton Hough, the housing is sited with a certain monotony. The precise layout though is to be considered formally at Reserved Matters stage, and on the information presented I have no basis to find 156 dwellings could not be suitably accommodated.

24. The scheme would necessitate the loss of many of the agricultural buildings now on site. In views from Mill Lane and from Hambleton Hough it is mainly the larger, modern utilitarian ones that are apparent. I consider these are not particularly attractive due to their scale, their materials, and their functional design. However, as buildings clearly associated with agriculture they are a visually accepted part of the countryside. They also illustrate the village's agricultural origins, although other buildings dotted throughout the village, often more prominently and with more heritage significance, do likewise. On balance I therefore consider their loss has a neutral effect in my assessment of this issue.

25. Turning to the effect on Chapel Street, at its northern end it has 2 arms that connect with the main road through the village (the A63), with some older agricultural/commercial buildings on the central triangular island and to the west. Travelling towards the appeal site it is then bounded by relatively simple houses and cottages of various designs that reflect the age and evolution of Hambleton, with the chapel and associated Sunday school opposite the proposed access and the older Garth House beyond. Moreover, the front boundaries of these properties tend to comprise walling, often with hedging above, though the height and style of the walls varies. Despite this variety, they nonetheless accord with the character of the buildings behind. On the east side, passing the appeal site, there is a long stone wall, again often with a hedge projecting above, that runs right round to Garth House though is punctured intermittently by various driveway openings. The length and uniformity of this wall brings a certain unity to the streetscape.

26. To the south of the intended site access and beyond Garth House, the character of Chapel Street changes. With the exception of isolated examples such as Mulberry Cottage, the road becomes dominated by modern suburban housing.

27. Overall, although not a conservation area, from Garth House northwards Chapel Street reflects the village's age, and its organic growth over the centuries as a small rural settlement.

28. The scheme proposes forming the principal access to the site through this long stone wall on the east side of the road. As part of these works, sections of the wall to either side of the access would be taken down and rebuilt a little further back from the carriageway in order to widen the pavement and allow sight splays, while the existing access further south would be infilled with a sympathetic length of walling. The existing planting now behind the wall where the access is to go would be removed to facilitate the road, while the illustrative plan shows one dwelling could be built there. Otherwise, the housing development would not be prominent from Chapel Street, as it would be set well back.

29. These works would inevitably involve some change in the appearance of the streetscape. However, if the existing entrance were to be closed up and the wall rebuilt sympathetically (matters that could be controlled by condition), this change need not be harmful, but would be in keeping with the evolving nature of the road.

30. The only designated heritage asset nearby is the Grade II listed Garth House. Dating from the early- to mid-18th Century, this is a 2-storey dwelling, which was probably a farmhouse originally, and has attractive detailing in its

brickwork and windows. Although subsequently extended, these alterations do not diminish the pleasing nature of its front elevation in particular, which contribute to its special architectural and historic interest. Accordingly, its significance is partly architectural, in the detailing and proportion it displays, and partly historic, as it reflects the agricultural past of the site.

31. From the north its frontage is visible for a length of Chapel Street, as it stands near to the outside of a bend, though in my opinion it only becomes a dominant element of the streetscape when approaching the Sunday School building. In these views though I accept it has a striking presence. However, to a certain extent works in its setting have already compromised its historic significance, as it now has new housing on Chapel Close and Rosewood Vale to one side and partly behind, while a new house sits between Garth House and the site's existing access. Furthermore, as stated above, having passed Garth House Chapel Street then has the character of a modern housing area. As such, its connection to agricultural land is now very much diminished.

32. The Framework says heritage assets are an irreplaceable resource. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset, including to its setting, requiring clear and convincing justification.

33. At the rear of Garth House, some of the old range of farm buildings on the appeal site that run along much of this dwelling's boundary would be restored and retained. This would maintain the enclosure that currently exists and minimise the introduction of the modern suburban elements of the development into the rear garden area of that listed building.

34. When looking from Chapel Street, the closest parts of the scheme to the frontage of Garth House would be the infilling of the existing access to the site, and the landscaping of the area behind. As stated above, the wall would also be demolished and rebuilt further from the carriageway to either side of the new access, while any house built to the north of the access could be set back. These works though would be a suitable distance from the listed building, and would be rebuilt in sympathetic detailing. Therefore, as Garth House now stands in what is, to a great extent, a suburban context, harm would not be caused to its significance.

35. In assessing this matter I am aware it was said Garth House would be positioned between 2 roads, namely Chapel Close/Rosewood Vale on one side, and the access to the appeal site on the other. However, given the distance to the proposal's entrance, noting the intervening dwelling, and taking account of the screening effects of the retained range of buildings, to my mind that is not how the property would be perceived.

36. I am not satisfied that a condition requiring archaeological investigation is justified on this site.

37. Accordingly, I conclude the works would not harm the significance of the listed building, or fail to have regard to the desirability of preserving its special architectural or historic interest. As such, in this regard it would not conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, or the Framework.

38. However, I also conclude that some harm to the character or appearance of the countryside would result from building on these fields, though this would be limited by the manner in which the site is generally surrounded on 3 sides by built form. Nonetheless, in this regard there would be some conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, and the Framework, though beyond this I have found no harm to the wider landscape.

Sustainability

39. The Framework says significant development should be focussed on locations that limit the need to travel and offer a genuine choice of transport modes. Priority should therefore be first given to pedestrian and cycle movements and second – so far as possible – to facilitating access to high quality public transport. Overall, when applying this Government guidance, to my mind it does not mean new houses should be limited to places where all the needs of their residents could be met entirely by a choice of transport modes other than by private motorised vehicles, as there would be few if any undeveloped sites with such a level of accessibility in the District. Rather, the guidance is qualified to a certain degree, and there is an acceptance of sites being developed even though future occupiers would be reliant, to some extent, on the private car. This is acknowledged by the Framework recognising that opportunities to maximise sustainable transport solutions will vary between rural and urban areas.

40. By identifying Hambleton as one of the District's Designated Service Villages, the supporting text to Core Strategy Policy SP2 says it has *'a good range of local services'* and so can accommodate further '*limited'* growth. Indeed, only the settlements of Selby, Sherburn in Elmet and Tadcaster are deemed hierarchically superior to the Designated Service Villages, although 3 of these Designated Service Villages are highlighted as '*particularly sustainable'.* I recognise that by being outside of the Development Limits it could be argued that the hierarchy in Core Strategy Policy SP2 is not applicable. However, the policy approach gives an indication of the relative service strength of Hambleton, while the accessibility to these services is not necessarily defined by a site's position relative to Development Limits. In these regards, the policy is therefore relevant.

41. This position is reflected in the eLP, which identified Hambleton as a Tier 1 village, again below only Selby, Sherburn in Elmet and Tadcaster. Whilst work on that plan is halting, it nonetheless implies that, in the Council's opinion at least, the relative status of the village has not changed.

42. The '*limited'* growth to which Core Strategy Policy SP2A(b) refers has no definition. Although local residents consider that, when taken with other recently approved development, the scheme is disproportionate in relation to the village, the Council, in interpreting its own policy, has not said it cannot be considered as *'limited'*. Given this, and having regard to the evidence before me, this is a view I share.

43. Hambleton has a convenience store, a primary school, 2 public houses, a village hall and places of worship. Despite it being outside of the Development Limits, from the appeal site these services are reasonably accessible on foot. They are not extensive though. My attention was drawn to no health provision in the village, education above primary school level is not available, the shop, although maybe offering day-to-day top-up goods, does not cater for more

extensive retail needs, the faith options are limited and there are few opportunities for employment or entertainment.

44. Inevitably, for these, residents would need to travel further afield to larger settlements around. Given the distances involved, the nature of the roads and the limited pavements, many residents would be unable to cycle or walk to them. For others it may be possible, but the speed of traffic, the poor lighting and the nature of the pavements would make them reluctant to embark on such journeys. Indeed, even if they did so on pleasant days or when their journey was not demanding, it is unlikely they would cycle or walk those routes in inclement weather, when dark, when having a tight timescale to meet or, for example, when wanting to do a large shopping trip. Overall, few if any would regularly make these trips on foot or on a bicycle.

45. Whilst there is a bus service, this is limited with, broadly speaking, a bus in each direction every 2 hours or so through the working day, and no mid/late evening or Sunday service. As such, it offers limited opportunity to overcome the village's deficiencies in relation to these matters.

46. Given the nature of the District though, precluding sizeable housing from a settlement with this level of service provision or even slightly greater, could well result in an undue focussing of housing onto Selby, Sherburn in Elmet and Tadcaster, which is something the development plan appears to seek to avoid through Core Strategy Policy SP2A. Although the Parish Council said that Hambleton had had *'more than its fair share'* of new housing, in the absence of a policy context to say otherwise it is not for me to assess the merits of a distribution across the District, but rather to consider whether this scheme would be acceptable on this village.

47. Moreover, the appellants have sought to upgrade the attractiveness of alternative transport modes through contributions to the bus service and the cycle way in the agreement under Section 106 of the Act (the S106 Agreement). The bus contributions would constitute about 40% of the sum necessary (at today's prices) to allow more services to run in the evenings and on Sundays over the next few years. Such improvements would increase the likelihood of public transport being used. I therefore consider the contributions to be reasonable and necessary, and so would comply with Regulation 122 in the *Community Infrastructure Levy Regulations 2010* (the Regulations).

48. A cycle contribution would be put towards improving cycle links between the village and Selby, by creating a dedicated, lit, cycleway. I was told this cycleway was still at a relatively early stage, as there was some detailed design work to do, and third party land to be obtained by compulsory purchase powers, but it was hoped to start construction in the next 3-4 years. Balanced against this, I recognise that such schemes take a long time to evolve and if its delivery was imminent it would probably be adequately funded already. I accept that it is most unlikely the cycleway would be in place before the first occupation of this development. I am satisfied though that the scheme is sufficiently advanced to mean that, even if there is some slippage in the timetable I have been given, there is a reasonable prospect the cycleway will be in place soon after, and so would be available for future residents to use in the years ahead. On balance, I therefore accept that the stated contributions would also accord with the Regulations.

49. The S106 Agreement delivers a Travel Plan with its monitoring as well. That again can only be an encouragement for future residents to embark on sustainable travel, and so, once more, accords with the Regulations.

50. Drawing all the above together, I find that Hambleton offers a basic range of facilities and services that would, to a greater or lesser extent, partially meet the day-to-day needs of the future residents, and would be reasonably considered as walkable from the scheme. Furthermore, *'further limited growth'* is accepted in this village, whilst the appellants are making contributions that would, in time, encourage using modes of transport other than the car that would be a benefit to the wider community. The scheme would nonetheless result in a reliance on private motorised transport to a degree as residents travelled further afield to access what was not provided locally. On balance though, given the policy context, what is offered in the village, and its relative status in relation to other settlements in the District, I conclude the site has not been shown to be deemed an unsustainable location, and in this regard the development would not conflict with Policy SP2 in the Core Strategy, or with Core Strategy Policies SP15 and SP19, which aim to facilitate sustainable access modes.

Highway safety

51. Chapel Street is relatively straight and wide at this point, and so, once the boundary wall has been realigned, visibility for drivers leaving the site would be satisfactory. I have no reason to consider that the introduction of this access would compromise the safety of children walking along Chapel Street as they are going to or coming from the school bus, as crossing estate roads such as this is not an inherently dangerous activity, and indeed is one they would quite probably have to do anyway elsewhere in their journey to or from their home.

52. When visiting the site I saw a number of cars parked at the kerbside in connection with a children's group at the chapel, and I understand such parking often occurs for people attending events and services there. The opportunity for this would be affected to some degree by the new access. However, it could occur elsewhere along the kerbside, and Chapel Street is not heavily trafficked. Consequently, I consider that, even with the additional flows associated with this scheme, any effects on the use of the road for parking would not be unacceptable. It was suggested that, through a condition, parking spaces for the chapel users could be secured on the site in front of the agricultural buildings the appellants are proposing to retain. I have no details of this though and am not satisfied that this would not fetter, to some degree, any future uses for those buildings. In any event, given the nature of Chapel Street and its capacity for kerbside parking, it is not something that I consider is necessary to make the scheme acceptable.

53. Through the conditions there would be opportunity to ensure the emergency access to Mill Lane had adequate visibility. Although the national speed limit applies to that road, given its character I consider it unlikely that much traffic would be travelling at or near 60mph.

54. A wider concern was raised by local residents about the congested and busy nature of the road network in general and the A63 in particular, and the additional pressures that would arise because of the scheme. I accept that the A63 is busy through the village, with roughly 1100-1200 vehicle movements

during peak times. This scheme would inevitably add to those, but I have no evidence to show the residual cumulative impacts on the road network would be severe.

55. More particularly though it was said that joining the A63 from Chapel Street, and especially turning right towards Selby, was difficult because of the heavy traffic. It was contended that, as a result, drivers would then use Mill Lane instead, and either go along Gateforth Lane or continue along Field Lane, with the latter lacking pavements and streetlights and so compromising the safety of pedestrians, cyclists and horse riders. However, I have no decisive evidence to demonstrate that the Chapel Street junction with the A63 was dangerous. I am also not persuaded that any displaced flows onto Mill Lane, Gateforth Lane, Field Lane or the other roads on this side of the A63 would be so great as to be harmful. I note that, although popular with walkers going to Hambleton Hough and maybe children and parents going to school, Mill Lane has a pavement. Whilst this may be narrowed by the hedge, that is a matter of maintenance and does not offer me a basis to find this pavement is unsafe. Moreover, I have no reason to consider Field Lane and the lanes beyond are used to a significant extent by pedestrians, cyclists or horse riders, or that this scheme would have a material effect on traffic passing along them. In any event those roads are typical of the countryside, and, irrespective of the proposal, all the various users have to take into account the presence of each other.

56. Accordingly I conclude the development would not adversely affect highway safety, and so would not conflict with Local Plan Policies T1 and T2, and the Framework, which all seek to protect highway safety and avoid severe cumulative impacts on the road network.

Affordable housing

57. Policy SP9 in the Core Strategy says

> *the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings. … The actual amount of affordable housing … to be provided is a matter for negotiation at the time of a planning application.*

This figure of 40% seems to have been based on an assessment that pre-dates the Core Strategy, and appears to be from around 2009.

58. However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (the Aspinall Verdi report) to inform Policy HG7 in the eLP, and this says it considers a greenfield delivery of 10% affordable housing to be viable in this area of Hambleton (what it calls a 'low value' area), though elsewhere in the District, in 'high value' areas, 20% could be secured. It was said that the discrepancy between Core Strategy Policy SP9 on the one hand and the Aspinall Verdi report on the other was because the latter took into account costs specific to the eLP. However, it has not been shown these differing costs have had a material effect on the figures in this case.

59. Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report

when compared to that informing the Core Strategy, I consider this report constitutes a material consideration to which I should attach significant weight in my assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks *'up to a maximum'* of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

60. The appellants have submitted a viability appraisal and, based on that and with roughly an 18% profit, they say a delivery of 10% affordable housing is viable. This appraisal was tested on behalf of the Council, and, while that testing agreed that 40% was unviable, it deemed 30% delivery was possible. At the Hearing it was confirmed that the reason for the discrepancies lay mainly in the assumed Gross Development Value (the GDV) and, to a lesser degree, in the stated abnormal costs[1].

61. As a starting point, such appraisals and testings, although professionally undertaken, nonetheless involve subjective judgements being made. They are clearly not an exact science, and merely because 2 professionals come to different views, it does not follow that either is necessarily wrong. Moreover, I am aware that the figure of 10% proposed by the appellants is in line with the findings of the relatively recent Aspinall Verdi report. Indeed, in the summaries in that report I saw no encouragement to use 10% as the point where negotiations for a higher figure begin, and indeed such an approach would remove any certainty or confidence from the process.

62. The Council also pointed out that, although the Aspinall Verdi report places the site in a 'low value' area, it was close to a 'high value' one, thereby implying regard should somehow be given to its proximity to the latter. Again though I saw nothing in the parts of that report before me to indicate that such a fluid approach should be applied near to the borders of these different areas. In any event, the 30% figure offered on behalf of the Council is appreciably in excess of what the Aspinall Verdi report advises for even the 'high value' areas.

63. Turning to the GDV, the appellants arrived at their figure by looking at sales prices of 2 or 3 years ago from a similar new estate in Hambleton, and then used recognised indexing to make them comparable to today's prices. The Council's testing, in contrast, has used up-to-date sales prices, albeit from other towns and villages in the area. This was partly because the Hambleton prices were not as recent, but also because it was said the gardens on the new estate in the village were smaller than now proposed, and the open space was not as accessible, and these factors would affect the relative house prices.

64. I am aware though that the other settlements used by the Council will inevitably have different 'push' and 'pull' factors for potential purchasers when compared to Hambleton. For example, they might be under the influences of other larger settlements, have better or worse access to the motorway network, offer a greater or smaller number of services, or have a housing stock of a different mix, with more or less newer housing. All these things

[1] The Council also said the appellants' assumption of 20% profit was too high. This was the assumption within the appellants' appraisal, but with that the appraisal showed the scheme not to be viable at 10% delivery. At the Hearing the appellants confirmed that reducing the profit to around 18% would mean viability could be achieved.

could influence the prices people were willing to pay for properties. Furthermore, although I have only illustrative details of the layout for the development before me, and little knowledge of the garden areas and open space provision for the new estate in the village, from what I could see I do not anticipate any material differences in these regards between the 2. To my mind I am therefore persuaded that, on balance, the appellant's preference for relying on Hambleton, albeit with necessary adjustments to price, is a more favourable one in this instance.

65. With regard to the abnormal expenses, although the site is broadly flat I noted the difference in land levels between the 2 fields that would need appropriate earth movements, and I also accept the appellants' comments concerning the need to dispose of the soil.

66. Overall, whilst I have noted the assumptions and approaches made and taken on behalf of the Council in testing the appellants' appraisal, they are not sufficient to show that, having regard to abnormal costs, economic viability and other requirements, I should not accept the appellants' assertion that only 10% affordable housing delivery on this site is justified.

67. The commitment to deliver this amount of affordable housing was included in the S106 Agreement. Given the policy context and my reasoning above, I consider this satisfies the requirements of the Regulations.

68. The Council raised the possibility of revisiting the affordable housing delivery levels as part of the reserved matters, when precise housing styles and sizes were known. Such an approach though means there was no need to have undertaken such work at this stage. Moreover, to my mind the delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward. As such, revisiting this issue is not something I have pursued.

69. Accordingly, I conclude that the delivery of 10% affordable housing has been supported having regard to abnormal costs, economic viability and other requirements, and so is in accordance with Policy SP9 in the Core Strategy.

Other matters

70. As well as the matters discussed above, in the S106 Agreement it is proposed to make education contributions to allow the village school to accommodate the scheme's children. Despite comments to the contrary from local residents, I have no firm reason to find this could not be achieved. Further education contributions are also provided to deliver facilities at secondary schools serving the development and also towards the Special Schools and early years provision. Moneys are to be given too for capital improvements at the local surgeries as well as to the Council to monitor the Travel Plans and First Homes provision, and to contribute to waste and recycling. Moreover, the S106 Agreement secures the open space and the delivery of self/custom-build housing.

71. Given the policy context and the evidence before me, I consider these comply with the Regulations.

Other material considerations and planning balance

72. I have therefore found harm would be caused by the scheme being outside the defined Development Limits, by its effect on the character and appearance of the area, as well as, possibly, by the loss of best and most versatile farmland. Each of these gives rise to development plan conflict. As stated above though, the weight afforded to the policy conflict concerning the scheme's effect on the character and appearance of the area is limited, as being substantially surrounded on 3 sides any sense of encroachment into the wider countryside would be restricted. In considering the policy conflict resulting from the possible loss of best and most versatile land, I am aware it concerns a relatively small area and so any adverse effects in this regard would not be great. Despite these comments though, I nonetheless accept a policy conflict exists for each of these 3 issues.

73. However, section 38(6) of the *Planning and Compulsory Purchase Act 2004* refers to a balance, saying development should be in accordance with the development plan unless material considerations indicate otherwise (my emphasis). Therefore, whilst the primacy of the development plan remains and its status is unaffected, clearly there is the possibility of instances arising where a scheme is allowed despite development plan conflict. To assess that requires a judgement by the decision-maker based on the relative weights they afford to material considerations.

74. The appellants have offered a number of material considerations that they consider weigh in favour of their scheme. First and foremost is the Framework's emphasis on significantly boosting the supply of houses, which is given without reference to the level of housing provision that a District may, in fact, be able to offer. Clearly this case would deliver an appreciable number of additional homes and so would positively assist in that regard.

75. Furthermore, reference was drawn to paragraph 11d) of the Framework. In relation to this scheme, this states that where the policies which are most important for determining the proposal are out-of-date (including situations where the local planning authority cannot demonstrate a necessary housing land supply) permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (paragraph 11d)(ii)).

76. Turning first to the most important policies, the Council accepted that Core Strategy Policy SP5 was out-of-date as the site allocations document on which it so heavily relied had never materialised, and this is a view with which I agree. Furthermore, the weight I afford to a conflict with Core Strategy Policy SP2A(c) is diminished as it does not include the more nuanced approach to the consideration of development that is found in the Framework.

77. Moving on to the housing land supply position, when the submissions were made, and indeed when the Hearing was held, the version of the Framework in place then said, because of the stage the eLP had reached, the Council needed to demonstrate it had a 4-year housing land supply. This the Council considered it could achieve, as it contended it had a housing land supply of some 4.9 years using the methodology in place at the time. Consequently, Framework paragraph 11d)(ii) was not then engaged. However, the 2024 version of the Framework rescinded the circumstance where only a 4-year supply was required, and so a 5-year housing land supply is currently needed.

Moreover, when assessed against the revised approach now found in Government policy and guidance, the Council accepts it has a shortfall in deliverable housing sites of some 2.4 years (with a supply of about 2.6 years). I consider this shortfall to be appreciable. As a result, Framework paragraph 11d)(ii) is engaged.

78. In the light of this shortfall the Council acknowledges that there is an immediate need for additional general market housing and its delivery is of significant benefit in the planning balance. This is a view I share. To my mind the provision of up to 156 houses is a significant benefit in the face of this shortfall, and is something to which great weight should be attached.

79. Further benefits of the scheme are the delivery of affordable and self-build housing. Once more, the Council accepts an immediate need for additional affordable housing, and its delivery is a significant benefit in the planning balance. I concur and afford significant weight to it and to the delivery of self-build housing. The contribution to public transport will benefit the wider community and so again is a matter to which significant weight is given. There will also no doubt be economic benefits both during the construction phase and once the houses are occupied, and these are afforded moderate weight.

80. I therefore find that, on balance, the adverse impacts of the scheme identified above would not significantly and demonstrably outweigh the benefits that arise from the delivery of additional housing in the face of an appreciable shortfall and from the other material considerations listed. As such, whilst I acknowledge development plan conflict, material considerations indicate the decision should be otherwise than in accordance with the development plan.

Conditions

81. For the avoidance of doubt, conditions should be imposed concerning the commencement of the permission and the submission of Reserved Matters. For this reason the scheme should be in accordance with the access details shown on the submitted drawings, and also reflect the parameters plan.

82. In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment, the working method, including a noise assessment and regard to vibration, needs to be agreed before works commence. Given such assessments, it is unnecessary to stipulate noise levels at neighbouring properties at this stage. Phasing plans (if necessary) should also be agreed.

83. Having regard to highway safety, the new access needs to be formed, with sight splays, before other works are undertaken and the old access stopped up soon after. Details should also be agreed of the proposed emergency and pedestrian accesses to Mill Lane, with details of how the use of the former would be restricted to emergencies only. Then, apart from that Mill Lane access and any access approved for construction, access should be solely from Chapel Street. Internal circulation roads and paths should also be provided to serve the new houses.

84. Mindful of the character and appearance of the area the walling along Chapel Street should be rebuilt, and remediation works for the range of buildings to

be retained should be approved so as to ensure their survival. Housing should also be set back a minimum of 20m from Mill Lane to maintain a soft frontage.

85. The design, delivery and management of foul and surface water drainage and also the SuDS scheme should be secured. In the case of the SuDS scheme, it is also necessary to secure a maximum discharge rate. However, whilst these matters are tackled under suggested conditions 19-24 and suggested condition 26, I consider they can be simplified. Finally, housing to wheelchair user standard should be provided and an assessment of potential contamination should be made. If unexpected contamination comes to light during construction, that can be addressed under other legislation.

86. Turning to the other suggested conditions, the housing mix would be apparent at Reserved Matters stage, and so does not need separate controls. Water draining onto the highway can be addressed when considering the road construction more generally. I also see no reason why all the dwellings hereby approved need be safeguarded from existing sources of environmental noise beyond the levels of protection delivered by other legislation, while the need for health impact screening has not been demonstrated. Finally, once remediation works to the range of existing farm buildings have been secured, their future use is a matter that can be addressed at a later date.

87. Conditions were also suggested concerning tree protection, design, parking, internal site circulation, the removal of 'permitted development' rights, levels, foundations, materials, landscaping, ecology and public open space delivery. Whilst these may well need to be controlled by condition, if that is to occur I consider it should take place under the Reserved Matters.

Conclusion

88. Accordingly, for the reasons given above I conclude the appeal should be allowed.

JP Sargent

INSPECTOR

Conditions Schedule

1) Details of the appearance, landscaping, layout, and scale (the Reserved Matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the Reserved Matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the Reserved Matters to be approved.

4) Unless otherwise amended under the conditions below, the development shall be in accordance with Drawings 31022 100-P-001A and 31022 100-P-002A, and shall reflect the form of development shown on Parameters Plan Rev A (dated July 2024).

5) No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:

   a) The points of access to be used.

   b) The area for loading/unloading plant and materials.

   c) The area for storing plant and materials.

   d) Any security hoarding around or within the site.

   e) Wheel washing facilities.

   f) Measures for controlling the emissions of dust.

   g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.

   h) The positioning of any gates to the site.

   i) External lighting.

   j) The hours of working.

   The development shall then be implemented in accordance with the approved details and timetable.

6) If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.

7) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority to demonstrate that 3% of dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. The development shall then be implemented in accordance with those approved details.

8) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for

their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

9) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of 2 access points (one emergency vehicular access, and one pedestrian access) between the site and Mill Lane. In the case of the emergency vehicular access, this shall include details and measures to restrict its use to emergencies only, along with a timetable for the implementation of those details and measures and a scheme for their intended management. The details and measures relating to the emergency vehicular access shall then be installed in accordance with the approved timetable and the emergency vehicular access shall thereafter be retained and managed in accordance with the approved management scheme.

10) Before the construction of any other works on site subject of this permission, the access off Chapel Street shown on the approved drawings shall be formed to a standard that has first been submitted to and approved in writing by the local planning authority. With the exception of any construction access identified in Condition 5 and the use of the emergency vehicular access referred to in Condition 9 for emergencies, sole vehicular access to and from the site shall thereafter be through this access.

11) Notwithstanding the specific details shown on the approved drawings, prior to the commencement of development details of the footway widening works, the manner in which the stone wall along Chapel Street is to be relocated using existing materials, and the intended method of closing the existing access to the site, shall be submitted to and approved in writing by the local planning authority. The relocation of the stonewall using existing materials, the footway widening works and the closing of the existing access, shall be completed in accordance with the approved details within 3 months of the installation of the new access under the terms of Condition 10 above.

12) Prior to the first use of the access to the site off Chapel Street, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.

13) No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.

14) With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

15) With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development shall be submitted to the

local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

16) With or before the submission of Reserved Matters, details of the SuDS scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Among other things, these details shall show how the means of discharging to the public sewer shall be at a rate not exceeding 4.75 litres per second. Once approved in writing, the SuDS scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

17) With or before the submission of Reserved Matters a condition survey of the buildings on-site to be retained, along with any necessary remediation works and a timetable for undertaking those works, shall be submitted to the local planning authority. Once approved in writing, the approved necessary remediation works shall thereafter be undertaken in accordance with the approved timetable.

18) With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.

19) No part of the main building of any dwelling or flat hereby approved (but for the avoidance of doubt not including any detached outbuilding) shall extend to within 20m of the carriageway to Mill Lane.

APPEARANCES

FOR THE APPELLANTS:

M Carter	Barrister
P Irwin	Highways consultant
M Johnson	Planning agent
B Richmond	Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

V Day	Senior Highways Engineer
M Evans	Principal Planning Officer
G Sharpe	Senior Solicitor
G Tyreman	Surveyor
R Welsh	Principal Policy Officer

INTERESTED PARTIES:

M Ferris	Chair, Hambleton Parish Council
J Janik	Local resident
K Murray	Local resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

FOR THE APPELLANTS

APP1: 15 Viewpoint photographs

APP2: Drawing 100-P-001 A

APP3: Drawing 100-P-002 A

APP4: Comments on Council's suggested conditions

APP5: Email to the Council suggesting a condition concerning access (dated 29 November 2024)

APP6: Signed section 106 Agreement (dated 2 December 2024)

APP7: Comments on Inspector's suggested conditions (dated 11 December 2024)

APP8: Email to the Planning Inspectorate, with attachments, concerning the effects of the new Framework on the case (dated 10 January 2025)

APP9: Email to the Planning Inspectorate responding to Documents LPA5 & LPA6, along with a Statement of Common Ground concerning appeal APP/U2750/W/24/3347833 (dated 24 January 2025)

FOR THE LOCAL PLANNING AUTHORITY:

LPA1: Local Plan Policy T7

LPA2: Letter from arriva date 7 May 2024

LPA3: Email accepting appellants' suggested condition of 29 November (dated 2 December 2024)

LPA4: Comments on Inspector's suggested conditions (dated 11 December 2024)

LPA5: Email to the Planning Inspectorate, with an attachment, concerning the effects of the new Framework on the case (dated 10 January 2025).

LPA6: Email to the Planning Inspectorate concerning the housing supply for the former Selby area (dated 10 January 2025)

LPA7: Email to the Planning Inspectorate confirming the status of the eLP (dated 21 January 2025)

LPA8: Email to the Planning Inspectorate responding to Document APP9 (dated 24 January 2025)

FOR LOCAL RESIDENTS:

LR1: Suggested matters to view on site visit from J Janik

Planning Inspectorate

Appeal Decision

Hearing held on 22 January 2025

Site visit made on 22 January 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/U2750/W/24/3347833
Land east of Broadacres, Mill Lane, Carlton DN14 9NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Hallam Land Management Ltd against North Yorkshire Council.
- The application Ref is ZG2023/0732/OUTM.
- The development proposed is up to 200 residential dwellings with access to, but not within, the site.

Decision

1. The appeal is allowed and planning permission is granted for up to 200 residential dwellings with access to, but not within, the site at land east of Broadacres, Mill Lane, Carlton, DN14 9NB in accordance with the terms of the application, Ref ZG2023/0732/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with access to be considered at this stage, and matters of appearance, landscaping, layout and scale to be reserved for consideration later. I have determined the appeal on the same basis.

3. There are two extant planning applications[1] for housing on the appeal site. These are undetermined at present.

4. For a number of reasons, including the publication of the revised National Planning Policy Framework (the 'Framework') in December 2024, officers made a recommendation to the Development Plans Committee and the Selby and Ainsty Area Committee on 17 January 2025 that work on the emerging Selby Local Plan (eLP) should cease. It is understood that this recommendation was accepted. The same recommendation will be made to the Executive Committee and then to the Full Council on the 26 February. As such, the Council consider that the eLP can carry only limited weight. However, there is no reason to consider that the evidence base supporting the eLP should be disregarded. Indeed, the report to the Selby and Ainsty Area Committee set out that the Council can continue to apply some weight to the most recent evidence base when making decision on planning applications, and that the evidence prepared for the eLP will be rolled into the preparation of the North Yorkshire Local Plan as appropriate.

[1] Refs 2022/0399/OUTM and ZG2024/0727/OUTM

Main Issue

5. Despite the appeal already having been lodged, the application subject of this appeal was initially brought to the Selby and Ainsty area planning committee with a recommendation that the committee conclude that planning permission would have been approved subject to the completion of a planning obligation. In light of new evidence on viability, that recommendation was subsequently changed, in an officer update note, such that it was recommended that the committee conclude that planning permission would have been refused because the affordable housing proposed was below that which could viably be delivered.

6. On that basis, I consider the main issue to be whether the development would make an appropriate contribution to affordable housing provision.

Reasons

7. Policy SP9 of the adopted Core Strategy (2013) states that the Council will negotiate for on-site affordable housing up to a maximum of 40% of the total number of dwellings. The policy adds that the actual amount of affordable housing will have regard to any abnormal costs, viability and other requirements. No abnormal costs have been suggested.

8. With regard to viability, the Council's Affordable Housing Supplementary Planning Document SPD (2014), which is referred to in the policy, advises that negotiations on affordable housing provision on specific sites will be informed by up to date evidence. The evidence supporting policy SP9 dates from 2009 and the officer report confirms that policy SP9 is based on supporting assessments that are over a decade old. A more recent Local Plan Viability Report by Aspinall Verdi was carried out in January 2021 and updated in 2022 and was produced to support the eLP. This concluded that for developments on greenfield sites in the low value area, such as this site, 10% of all units should be affordable. Moreover it concludes these rates are only viable when CIL is nil. It is understood that the proposed development would be liable for CIL to the tune of just over £950,000.

9. As set out above, some weight can still be applied to the evidence base supporting the eLP. In particular, it is notable that whilst the Council recognise in their report to the Selby and Ainsty Area Committee that some of the evidence base documents supporting the eLP will need updating, such as the Gypsy and Traveller Accommodation Assessment, the Strategic Flood Risk Assessment, highways modelling and evidence relating to the regeneration of Tadcaster, there is no suggestion that the Viability Report needs updating.

10. Policy HG7 of the eLP realises the evidence in the Viability Report by confirming the minimum requirement of 10% of homes to be affordable on greenfield sites in low value areas. Policy CARL-G of the eLP which relates solely to the appeal site, also stipulates this 10% minimum requirement. Even if these policies carry limited weight, the evidence behind them remains to be of significant bearing.

11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal[2] where the Inspector

[2] Ref: APPU2750/W/24/3347885

considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough[3] noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved.

12. With regard to other requirements, referred to in SP9, the Council consider that the development does not provide the required amount of open space. The adopted policy relating to open space is RT2 of the Selby Local Plan (2005), which states that for proposals of five dwellings or more, recreational open space should amount to 60 square metres per dwelling. This would equate to 1.2 hectares and it is agreed by the parties that the development would provide 1.2 hectares of public open space including play areas.

13. ELP policy IC3 sets out the type of open space that would be needed based on the anticipated population. The Council suggest that, when considered against this policy, the development would provide around only half the required open space.

14. The officer report says that it is not appropriate to use policy IC3 as the Council have no evidence of the quantity or quality of the existing open space provision in Carlton and therefore to what extent additional provision is necessary. At the hearing it was confirmed that, in particular, it is the quality of the existing open space that has not been assessed.

15. Even before the decision to cease work was reached, the Council considered it was not appropriate to use policy IC3, and based on the lack of evidence to support that policy, I have no reason to disagree. Little weight can therefore be given to the proposal's conflict with that policy. Far greater weight can be given to the development's accordance with policy RT2.

16. In summary the provision of 10% of the dwellings in the development to be affordable would be an appropriate contribution to the provision of affordable housing. A completed section 106 agreement has been submitted which includes an affordable housing scenario securing 10%. This obligation accords with the tests in Regulation 122 of the CIL Regulations and so I have taken it into account. The alternative scenario in the agreement, of 13%, is unnecessary and I have had no regard to it. The development would accord with policy SP9, as set out above, and eLP policies HG7 and CARL-G.

Other Matters

S106

17. The S106 agreement includes a contribution towards healthcare based on the anticipated population of the development, for which there is no capacity at Beech House Surgery in Carlton. The additional floorspace necessary to meet the additional population, the cost of providing that and the resultant financial contribution has been justified in a letter from the NHS Humber and North Yorkshire Integrated Care Board.

[3] Ref APPU2750/W/23/3327421

18. The education contribution is based on the expected pupil yield from the development and the capacity of existing schools. I understand that the nearest secondary school, Holy Family Catholic School, is due to close soon. However, there is considered to be sufficient capacity at the nearest secondary school, Brayton Academy, to accommodate pupils from the development as well as from, Holy Family. However, there is insufficient capacity at Carlton Primary School to accommodate the anticipated primary school age children. Likewise a development of the scale proposed would generate a need for a contribution to Special Educational Needs and Disabilities provision locally which is at Selby Special School, and to contribute to the provision of additional capacity at early years or pre-school facilities in Carlton. All the values have been calculated and justified in correspondence from the Council's Children and Young Peoples Service team.

19. It is necessary to mitigate the effect of additional traffic using the Mill Lane/High Street junction, and to that end the agreement secures funds to extend the existing yellow line painting at this junction. There is also an undertaking which secures funding to provide new signage for the public right of way which currently runs across the site, and the nearby national cycle network. Also an obligation is included to secure funds to allow the Council to monitor the Travel Plan.

20. An obligation to secure a contribution towards the provision of four waste bins per dwelling is also included, which has been justified by the Council's Waste team.

21. The agreement will also ensure that 3% of the houses are self or custom build homes, that the recreational open space within the site is provided, and that biodiversity enhancement management and monitoring plan improvements are provided.

22. All these contributions have been justified and I consider them to be reasonable in scale and kind to the development, are directly related to the development. and are necessary to make the proposal acceptable in planning terms. I consider therefore that they meet the three requirements of Regulation 122 and I have therefore taken them into account.

Habitat Regulations

23. The Humber Estuary Special Protection Area (SPA) Special Area of Conservation (SAC) and Ramsar site is around 8km east of the site. Its qualifying features include a number of bird species such as Golden Plover and Knot, and habitats such as Atlantic salt meadows.

24. The Lower Derwent Vally SPA, SAC and Ramsar site is around 9km northeast of the site. Its qualifying features include Bewick's swan, and habitats such as Alder woodland on floodplains.

25. The River Derwent SAC is located around 5km northeast of the site and the Thorne Moor SAC and Thorne & Hatfield Moors SPA are located about 8.5km to the south east. Their qualifying features are their habitats as a river with floating vegetation and as raised bogs. The shadow Habitat Regulations Screening Assessment (sHRSA) found no impact pathways between the site and these European sites.

26. With regard to the Humber Estuary and the Lower Derwent Valley European sites, the sHRSA identified that because the appeal site has been intensively farmed with mechanical equipment and the use of pesticides it provides limited potential for

foraging habitat for the cited bird species. In addition, the proximity of dwellings and the use of the track along its eastern edge for dog walking provide sources of human disturbance which the cited bird species would be sensitive to. Lastly, there are significantly more suitable habitats for the cited species nearby. These factors along with the limited recorded activity of any of the cited birds at the site mean the development and the loss of open farmland will not be likely to have significant adverse impacts on the qualifying features of these European sites. Therefore even in combination with any other plans or projects, the development would not be likely to result in a significant adverse impact. This view reflects that of the Council ecologist and Natural England.

Heritage

27. Carlton Towers is a Grade I listed building situated around 500m to the southwest of the appeal site. It is a large country house originally dating from the early 17th century set in substantial grounds. Its significance stems from its historical value as the prominent building in the village over many centuries, and its aesthetic value which includes a tall central clock tower which is visible over a wide area, including from the appeal site. Its setting is largely informed by the estate parkland in which it sits, which itself is of local interest, and which contributes positively to its significance. The wider village also makes a contribution, albeit limited, to its setting.

28. The clock tower is not readily visible from the front of the appeal site due to trees along much of the southern side of Mill Lane. However from further into the site, and from positions on Long Hedge Lane to the east and north, the tower is visible in the distance reinforcing its prominence in the landscape, with the appeal site in the foreground. The development would therefore be seen in the same views as the listed building, albeit most likely partly screened by the proposed vegetation around the boundaries of the site.

29. The houses along Mill Lane, as well as the spread of houses in Broadacres, are also visible in views towards the clock tower. As such, the relationship of houses with the heritage asset is well established. Moreover, views of the clock tower would remain to be visible above the proposed dwellings, due to their modest maximum heights which are set out on the parameters plan, and the fact that the houses would be set well back from Long Hedge Lane. Although the development would introduce a significant number of houses, it is not considered that the relationship of the listed building to its surroundings would be materially altered and so there would be no harmful effect on the setting of the listed building. Consequently there would be no adverse effect on the significance of the listed building.

30. Similarly, the significance of the estate parkland, as a non-designated heritage asset, is primarily its role as the grounds for Carlton Towers. The development would have no impact on the significance of this asset. The Council's opinion on the effect on heritage assets is consistent with my view.

31. There are other listed buildings elsewhere in the village, but the Council do not consider the site is within the setting of these assets and, given their distance from the site and the intervening development, I have no reason to consider otherwise.

Local concerns

32. I have given careful consideration to the concerns of local residents. Though the development would result in additional traffic using the Mill Lane/High Street junction, with the Transport Assessment (TA) anticipating around 100 extra vehicles in the AM and PM peak hours, it is considered that there will be no unacceptable impact on the operation of this junction with only minimal queuing and delay likely. It is also anticipated that very little traffic would choose to take the more indirect route to the A1041 via Townend Avenue. It is noted that the surveys to underpin the TA were conducted during the Covid pandemic. However this was explicitly compensated for in the assessment. Other nearby developments and a general increase in traffic to 2029 was also taken into account to ensure robustness. Improvements would also be made to the pedestrian environment along Mill Lane as well as to the High Street/Mill Lane junction as set out above. Construction traffic, and noise, would be for a limited period and the timing of this traffic could be controlled by a Construction Environmental Management Plan. The layout of parking within the site would be dealt with as a reserved matter. The lack of objection from the Local Highway Authority supports my view.

33. Details of the scale and appearance of the houses and the layout of the site, including parking, are not before me at this outline stage. Therefore matters of privacy, outlook or light at the nearest existing properties can only be assessed at the reserved matters stage. Similarly landscaping is a reserved matter.

34. The development would represent a significant enlargement of Carlton. However I recognise that the site has been allocated for 150 homes in the eLP, and although work has ceased on this, there is no evidence before me to consider that the site would no longer be considered as a possible allocation. Indeed, it is common ground that following the publication of the revised Framework, the Council's housing need has increased and there is therefore even greater pressure to provide homes. As such, although the site is outside the development limit boundary for Carlton, which results in conflict with Policy SP2 of the Core Strategy, its allocation in the eLP, in policies HG1 and CARL-G can be given weight. Indeed it was not suggested by the Council that the principle of the proposal can no longer be supported.

35. Drainage details for foul and surface water would be controlled by a planning condition which requires the provision of schemes to be approved by the Council.

36. As well as providing financial contributions towards the local primary school, early years facilities and medical facilities in Carlton, there would be an economic benefit to local shops and services.

37. Details of ecological enhancements would be provided at the reserved matters stage and a substantial part of the site, closest to the neighbouring wooded area to the south east, would be set aside for biodiversity.

38. The site is classified as Grade 3a Best and Most Versatile agricultural land. Core Strategy policy SP18 says development will be steered to areas of least agricultural quality. The officer report states that in the wider area, the land to the east of the High Street, including the appeal site, is of lower grade than that to the west. I have no reason to consider otherwise, so although the development would result in the loss of agriculturally productive land, it would not conflict with the policy.

Conditions

39. A list of conditions was provided, with comments by both parties. I have considered their comments as well as the advice in the Framework and the Planning Practice Guidance (PPG) in the final wording of the conditions.

40. Conditions relating to the commencement of the development, the submission of reserved matters and identifying the approved plans are necessary in the interests of certainty.

41. I have imposed a condition which requires 6% of the houses to meet Building Regulation M4(3) wheelchair user standard, and for all homes to meet the Nationally Described Space Standards. Although there is no adopted policy explicitly requiring this, it does reflect the advice in the 2020 Housing and Economic Development Needs Assessment. I consider it necessary in the interests of promoting equality and enabling balanced communities.

42. The three conditions relating to works to the highway, creation of visibility splays and the construction of the access are imposed in the interests of highway safety. I have altered the condition relating to the visibility splays to simplify it and so that it accurately reflects the plans, and I have altered the condition relating to works to the highway so that it is clear that the provision of the footway should not compromise the width of the carriageway. The condition relating to the Travel Plan is necessary to promote sustainable travel.

43. I have amended the condition relating to foul drainage to omit the requirement to demonstrate approval from the sewerage undertaker. This is because it is unlikely that the details required by the condition could be provided without the sewerage undertakers approval. In any case, the Council could consult that body if that approval was not explicit in the details provided. This condition, and that relating to surface water, are imposed to ensure the development is served by satisfactory drainage.

44. I have removed some of the items in the condition relating to a Construction Environmental Management Plan. This is because they are either covered by other items in the condition, other legislation or are unnecessary. The altered condition is necessary to protect the living conditions of nearby occupiers. Likewise the conditions relating to any soil contamination and foundation piling are imposed for the same reason. I have altered the wording of the condition relating to remediation so that it relates only to the part of the site in which remediation is needed as to delay development on other parts of the site would be unreasonable.

45. Two conditions relating to maintenance of the water mains that pass through the site and the electricity cables, are imposed in order to maintain existing infrastructure. I have slightly reworded the condition relating to the electricity cables so that such infrastructure would only be relocated underground if necessary.

46. In the interests of ensuring the site and its surroundings are protected from flooding, a condition is attached to ensure any flood water which exceeds the capability of the proposed drainage features is suitably managed.

47. As agreed by the parties, I have removed the requirement for the finished floor levels of the houses to be 300mm above the 1 in 100 year plus climate change flood level. The remainder of the condition is necessary in the interest of

maintaining the character and appearance of the area. For the same reason I have imposed a condition relating to the protection of existing trees.

48. The biodiversity net gain condition has been amended as agreed by the parties to simply require the submission of an updated biodiversity impact assessment with the reserved matters. Also the condition relating to bat sensitive lighting has been amended to refer solely to the lighting within the appellant's control. The Council confirmed street lighting would be bat sensitive anyway. These conditions are necessary in the interests of promoting biodiversity.

49. A condition is attached to secure the necessary open space, however I have removed the explicit reference for the local area for play and the locally equipped area for play to be designed to the standards set out in guidance as it would be within the Council's control to refuse to discharge these details if they are sub-standard.

50. The condition requiring a health impact assessment screening checklist has not been included as the Council agreed it was unnecessary.

Conclusion

51. The proposal would accord with the development plan taken as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. Therefore the appeal is allowed.

A Owen

INSPECTOR

Schedule of Conditions

1) Details of the access (within the site), appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

3) The development hereby permitted shall be carried out in accordance with drawing nos 2337.01 and 17105/GA/02 Rev F.

4) The reserved matters application(s) shall conform with the approved parameter plan number 2337:04 Rev D.

5) The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the local planning authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall proceed in accordance with the approved details.

6) No development (excluding demolition, archaeological investigation, service diversions and any land remediation/ground improvement works) shall take place until detailed engineering drawings of the following have been submitted to and approved in writing by the local planning authority: a) All internal roads of the development; b) All works on drawing number 17105/GA/02 Rev F; c) Notes B to F inclusive on Detailed masterplan 2337.02 Rev D; d) The widening, to 2m where possible without encroaching onto the carriageway, of the footway on the northern side of Mill Lane from the application site frontage to the junction of Mill Lane with High Street; e) The emergency access to Broadacres Garth shown on Detailed Masterplan 2337.02 Rev D. The submission shall include an independent Stage 2 Road Safety Audit (commissioned in accordance with North Yorkshire Council protocol) carried out in accordance with 56 OFFICIAL GG119 - Road Safety Audits or any superseding regulations. The development shall proceed in accordance with the approved details. The works secured by criteria b to e inclusive shall be completed prior to the first occupation of any dwelling on the development.

7) The vehicle visibility splays of 2.4m x 47m to the east and 2.4m x 54m to the west, as shown on drawing number 17105/GA/02 Rev F, shall be free of any obstruction exceeding 0.6m in height. Pedestrian visibility splays of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of Mill Lane shall be free of any obstruction exceeding 0.6m in

height. All splays shall be provided prior to the first occupation of any dwelling on the development and retained as such thereafter.

8) No dwelling shall be occupied until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved and kerbed and connected to the existing highway network with any street lighting installed and in operation. The penultimate dwelling shall not be occupied until the access routes serving the development have been completed to wearing course level.

9) The Travel Plan October 2023 (Rev 2) shall be implemented in accordance with the details it contains.

10) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of surface water drainage for the whole site, including ground water pollution prevention measures, adoption/maintenance details and a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall comprise sustainable urban drainage systems, unless comprehensive justification for other methods is agreed. Thereafter the drainage scheme shall be implemented and maintained in accordance with the approved scheme.

11) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of foul drainage for the whole site, including details of the means and extent of impermeable lining of foul sewers within ground water source protection zones, a timetable for its implementation and adoption/maintenance details has been submitted to and approved in writing by the local planning authority. Thereafter the foul drainage scheme shall be implemented and maintained in accordance with the approved scheme. There shall be no temporary storage of foul sewage on the site.

12) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction phase for the development. The plan shall include:

i) details of any temporary construction access(es) to the site including measures for removal following completion of construction works;

ii) details of onsite wheel and chassis underside washing facilities and methods of cleaning the highway;

iii) the parking of contractors', site operatives and visitor's vehicles;

iv) areas for storage of plant and materials used in constructing the development clear of the highway;

v) measures to manage the delivery of materials and plant to the site including routing and timing of deliveries, loading and unloading areas;

vi) pre-development condition survey of the parts of Mill Lane that will be used by vehicles associated by the development;

vii) details of development and delivery hours;

viii) erection of temporary security fencing;

ix) measures to control and monitor dust, dirt, noise and vibration emissions arising from the development;

x) removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;

xi) location and type of temporary lighting and methods to prevent light nuisance and harm to bats;

xii) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue at the site;

xiii) details of interception measures to avoid pollution of ground water source protection zones;

xiv) Details of the means of protecting trees and hedgerows during construction of the development, to be installed prior to the commencement of other elements of the development and to be retained until the development adjacent to the tree or hedgerow is completed.

13) No foundation piling shall take place until a schedule of works to identify 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. Development shall be carried out in accordance with the approved details.

14) No development shall take place, until a site investigation and risk assessment has been undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors, and it shall be submitted to and approved in writing by the local planning authority.

15) Where remediation works are shown to be necessary, no development shall take place until a detailed remediation strategy has been submitted to and approved in writing by the local planning authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works.

16) Prior to the occupation of the relevant phase of the development, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the local planning authority. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act.

17) In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the local planning authority. Following completion of measures identified in

the approved remediation strategy, a verification report must be submitted to and approved in writing by the local planning authority.

18) No building shall be located over or within 6 metres of the two water mains that pass through the site. Any tree, hedgerow or shrub planting within this protected area shall first be agreed in writing by the local planning authority. If the required stand-off distance is to be achieved via diversion or closure of the water main(s), the developer shall submit evidence to the local planning authority that the diversion or closure has been agreed with the relevant statutory undertaker.

19) The reserved matters application(s) shall include proposals to relocate, divert or place underground where necessary the electricity cables and related infrastructure that cross the site along the Mill Lane frontage and a timetable for doing so, for approval in writing by the local planning authority. This infrastructure shall be moved in accordance with the approved details.

20) The reserved matters application(s) shall include a flood water exceedance flow plan to be submitted to and approved in writing by the local planning authority. This shall include details of how the site design will ensure that when SuDS and or drainage features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30-year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100-year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site. Development shall be carried out in accordance with the approved details.

21) The reserved matters application(s) shall include details of finished floor levels of the dwellings, and existing and proposed surrounding ground levels, to be approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

22) No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with the approved landscaping plans submitted at reserved matters stage, without the written consent of the local planning authority. Any existing tree, shrub or hedge or any tree, shrub or hedge planted as part of the landscaping scheme or any replacement that dies or is removed, uprooted or destroyed or becomes seriously damaged or defective within a period of 5 years of completion of the landscaping scheme, must be replaced by another of the same species in the next available planting season.

23) The reserved matters application(s) shall include an up-to-date Biodiversity Impact Assessment which shall demonstrate a Biodiversity Net Gain of 10% and a methodology to ensure the submission of regular monitoring reports with remedial actions to achieve the objectives for 30 years from the date of completion of the habitat creation or enhancement. Biodiversity Net Gain shall be carried out in accordance with the approved details. The developer shall notify the local planning authority in writing within 14 days of the completion of the habitat creation and or enhancements that constitute the approved Biodiversity Net Gain scheme.

24) The reserved matters application(s) shall include a scheme of ecological enhancements for bats, birds and hedgehogs based on the measures outlined in the submitted Ecological Impact Assessment Report; hedgehog gaps in fences; a bat sensitive lighting scheme (not including street lighting) with particular avoidance of hedgerows and new/enhanced habitat; and an implementation schedule for approval in writing by the local planning authority. Development shall proceed in accordance with the approved details and the implementation schedule it contains.

25) The reserved matters application(s) shall include details of the public open spaces, a Local Area for Play (LAP) and a Locally Equipped Area for Play (LEAP) which are to be located within the public open spaces shown on the approved parameter plan. Development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT

Jonathan Dunbavin	ID Planning Consultants
Mark Johnson	Johnson Mowat
Martin Carter	Barrister

FOR THE LOCAL PLANNING AUTHORITY

Martin Evans	Principal Planning Officer
Richard Welch	Planning Policy Officer
Diane Holgate	Principal Planning Officer
Glenn Sharpe	Council Solicitor
Jake Gamble-Schofield	Align Property Partners

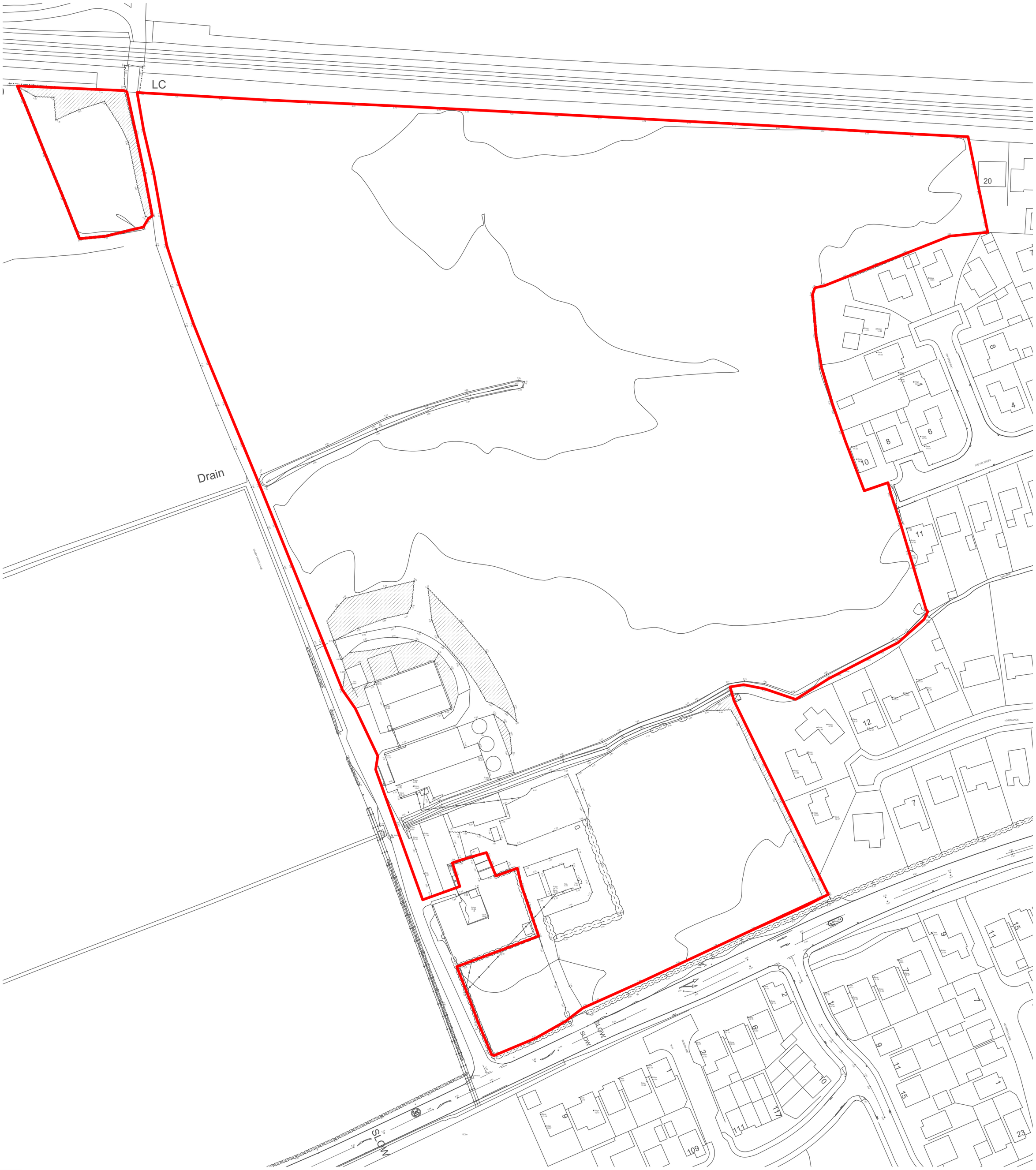
DOCUMENTS PROVIDED AT THE HEARING

List of sold prices of houses in The Hawthornes, Carlton

Email exchange between Align Property Partners and the appellant regarding garage construction costs.

Issue:

APPENDIX E



- Red line boundary - 6.81ha (16.8 acres)

N

0 25 30 35 40 45 50 m

Land at Leeds Road, Thorpe Willoughby - Site Location Plan

| PEGASUSGROUP.CO.UK | TEAM/DRAWN BY: BB/MH | APPROVED BY: JB | DATE: 05/05/2023 | SCALE: 1:1000@A2 | DRWG: P22-3091_0101 | CLIENT: Hallam Land |

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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

30TH APRIL 2025

ZG2023/0358/OUTM - OUTLINE APPLICATION FOR UP TO 145 RESIDENTIAL DWELLINGS AND ASSOCIATED WORKS, INCLUDING ACCESS FROM LEEDS ROAD BUT NOT ACCESS WITHIN THE SITE (ALL OTHER MATTERS RESERVED) AT LAND SOUTH OF LEEDS ROAD, THORPE WILLOUGHBY, SELBY ON BEHALF OF VISTRY HOMES LTD

REPORT OF THE ASSISTANT DIRECTOR PLANNING – COMMUNITY DEVELOPMENT SERVICES

1.0 Purpose of the Report

1.1 To determine an outline application for up to 145 residential dwellings and associated works, including access from Leeds Road but not access within the site (all other matters reserved) at land south of Leeds Road, Thorpe Willoughby, Selby, North Yorkshire.

1.2 This application is reported to Committee because the Head of Development Management considers this application to raise significant planning issues such that it is in the public interest for the application to be considered by Committee.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to prior completion of a Section 106 agreement to secure the matters detailed below and the conditions detailed below.

2.1. This is an application for outline planning permission for up to 145 dwellings with access to the site to be determined. One vehicular access to Leeds Road, an emergency access to Pond Drive and a pedestrian access further west to Leeds Road are proposed. The site layout plan is illustrative of how the site could be developed. The site is within the countryside to the west of the development limit of a Designated Service Village, Thorpe Willoughby. The site is relatively flat and undeveloped with a part frontage hedgerow and peripheral trees.

2.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not

allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

2.3. However, the Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

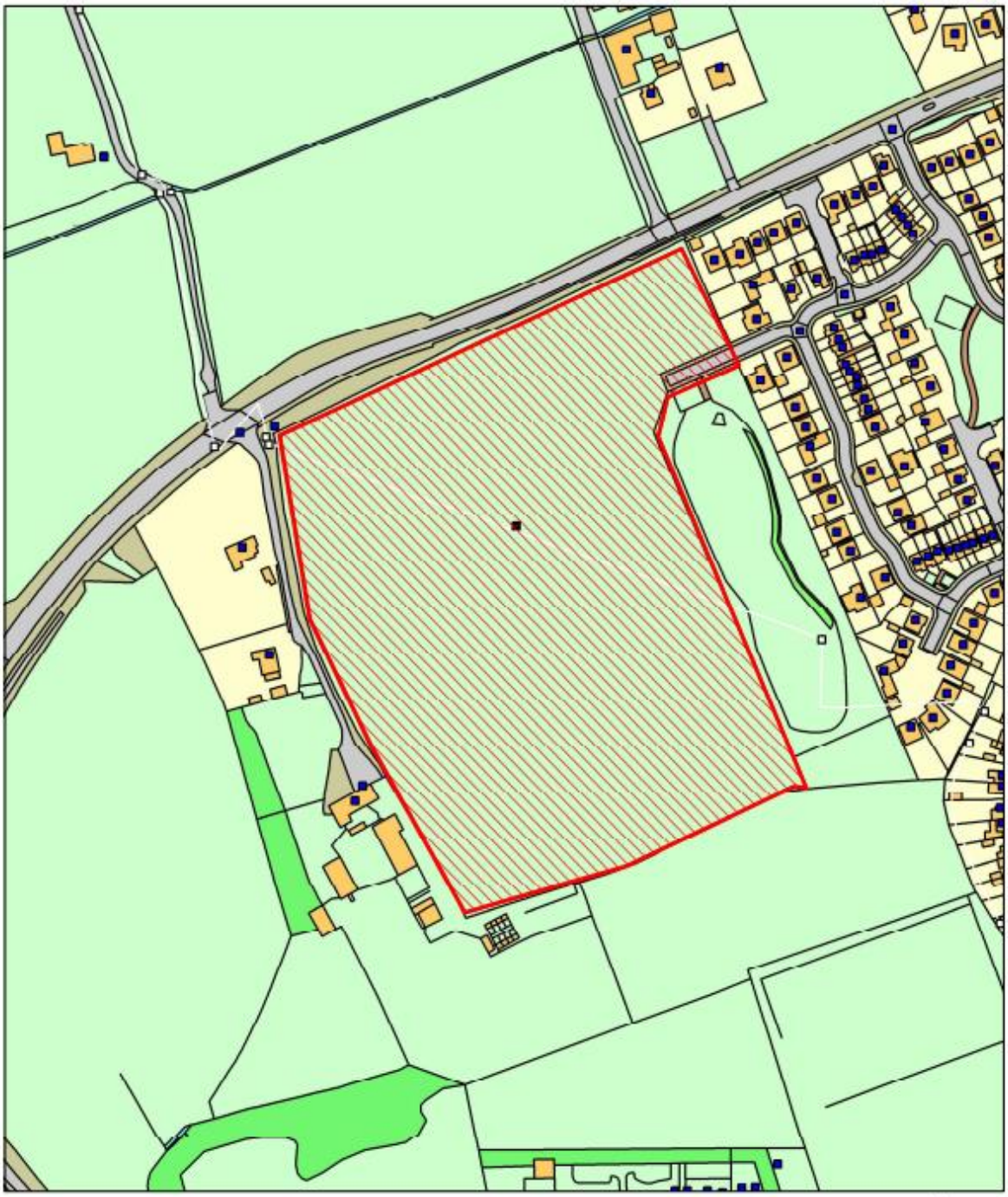
2.4. Adverse impacts include limited and localised visual and landscape character harm; the loss of a modest amount of best and most versatile agricultural land with resultant minor harm to the agricultural economy and food self-sufficiency; minor loss of potential mineral resources; potentially no self and custom build housing and conflict with the development plan.

2.5. Neutral matters include the flood risk sequential test is passed, the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; and education, healthcare and bin contributions are secured to ensure no detriment is caused.

2.6. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a significant contribution to needed market and affordable housing (great weight is given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems; the scheme will provide contributions to enhance bus services and cycle facilities which benefits existing and future residents; a biodiversity net gain and ecological enhancements are secured; provision of open space and play areas that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

2.7. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior completion of a S106 agreement.

Site Map



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3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:- ZG2023/0358/OUTM | Outline application for up to 145 residential dwellings and associated works, including access from Leeds Road but not access within the site (all other matters reserved) | Land South Of Leeds Road Thorpe Willoughby Selby North Yorkshire

3.2. The following relevant planning history has been identified for the application site:

2022/1321/SCN EIA screening opinion for 170 proposed residential dwellings. The LPA confirmed the proposal is not EIA development on 9/12/2022.

4.0 Site and Surroundings

4.1. The site is located at the western edge of Thorpe Willoughby on the south side of Leeds Road. The site is 5.06ha in area and broadly rectangular in shape. It comprises arable agricultural land with boundary hedgerows and a small number of established trees. Existing vehicular access into the site is via a five bar gate to the track to the west which joins Leeds Road and there is a second access from Pond Lane to the east.

4.2. The site is bound by the A1238 (Leeds Road) to the north with farmland beyond; dwellings and farm buildings to the west with farmland beyond; a small field to the south beyond which is a modern housing development and Thorpe Willoughby Sports Association; and to the east is a drainage attenuation pond with associated modern housing estate.

4.3. The entire site is within Flood Zone 1 (low risk of river and sea flooding) and is at low risk of flooding. Small parts of the site are at low and medium risk of surface water flooding. It is not located within a conservation area or immediately adjacent to heritage assets. There are no ecological designations on or in close proximity to the site.

4.4. The Thorpe Willoughby development limit is to the east of the site hence the site is within the countryside. Hambleton Hough to the south west and Brayton Barff to the south east are separate Locally Important Landscape Areas (LILA). Parts of Brayton Barff to the south east of the site are classified as ancient woodland, and a site of importance to nature conservation (SINC). The site is within a sand and gravel safeguard area.

5.0 Description of Proposal

5.1. This is an application for outline planning permission for up to 145 dwellings and associated works, including access from Leeds Road but not access within the site. All other matters are reserved. The application proposes 15% of the total number of dwellings are affordable housing.

5.2. The primary access to the site would be via a new priority junction onto Leeds Road, located near the north-east corner of the site. A further pedestrian/cycle and

emergency access will be located off Pond Lane, connecting to the residential development to the east of the site. A further pedestrian and cycle access is proposed further west along Leeds Road. The 30mph speed limit on Leeds Road will be extended to the west of the site frontage and a 40mph section introduced leading up to the roundabout. The speed limit would revert to the National Speed Limit beyond this point. A 3m wide shared cycleway/footway will also be provided on the south side of Leeds Road along the site frontage.

5.3. Layout and landscaping matters are reserved for subsequent approval. However, an amended illustrative masterplan has been submitted showing a site frontage SUDS basin, internal road layout, housing areas, north eastern open space, central open space and southern/western open space. The landscape masterplan and other documents have not been updated to reflect this. This application has been considered on the basis of the aforementioned access and highway proposals, and that all the other documents are purely illustrative of how the site could be developed, rather than how it will be developed.

6.0 Planning Policy and Guidance

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

6.2. The Adopted Development Plan for this site is:

- Selby District Core Strategy Local Plan (adopted 22nd October 2013)
- Those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
- Minerals and Waste Joint Plan (adopted 16 February 2022)

Emerging Development Plan – Material Consideration

6.3. The Emerging Development Plan for this site is:

- Selby Local Plan revised publication 2024 (Reg 19)

On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. The responses have been considered. From 8 March to 19 April 2024 the Council held a six-week consultation on the Pre-Submission Revised Publication Selby Local Plan. The responses have been considered.

On 17th January 2025, a report was taken to the Selby and Ainsty Area Committee and Development Plans Committee recommending that work on the emerging Selby Local Plan is ceased. A report was taken to North Yorkshire Council's Executive on 4

February and then North Yorkshire Council's Full Council on 26 February with the same recommendation which has been agreed.

Having regard to the above, there is no emerging local plan to consider, but some weight may be given to the evidence base. The site is identified as a draft housing site in the Selby Local Plan revised publication 2024, as site THRP-K.

- North Yorkshire Local Plan- this has reached an early stage of preparation and no weight can currently be attributed to it..

Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2024
- National Planning Practice Guidance
- National Design Guide 2021
- Affordable Housing Supplementary Planning Document (AHSPD) 2014
- Developer Contributions Supplementary Planning Document (DC SPD) 2007

7.0 Consultation Responses

7.1. The following consultation responses have been received and have been summarised below. The following were consulted but no response received: Hambleton Parish Council, Conservation Officer, Public Rights of Way Officer, Network Rail, Environment Agency and the Secretary of State for Transport.

7.2. **Thorpe Willoughby Parish Council:** 19/4/2023 Objects:

"LAYOUT AND DENSITY OF BUILDING This application is contrary to Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and Chapter 12 of the NPPF as we believe such a proposal would negatively impact on the character and appearance of the area as by building 160 houses on this site it will look dense and visually unattractive to look at and not in keeping with the rest of the village. HIGHWAY SAFETY & TRAFFIC The application contravenes paragraphs 108-110 of the NPPF as Highway safety is a concern. The quantity of houses being built will add potentially 360 more cars (two per household) meaning that traffic in the village will become dangerously high. Access to the development is on a main road, very close to a roundabout. Even if the 30mph sign is moved closer to the roundabout we have concerns about accidents pulling out of this proposed development. We find that the neighbouring housing estate have no end of problems pulling out onto the busy road (A1238). These extra vehicles will also cause increased pollution, potential speeding and increased wear and tear on our roads.
OTHER FACTORS: This outline plan by postcode is in Thorpe Willoughby but by parish boundary sits within in the majority of Hambleton Parish meaning that the Construction Levy generated would be paid to Hambleton. The small corner in our parish is unlikely to generate any CIL. The houses being built are in fact two miles away from Hambleton village who will financially benefit but will not feel their amenities stretch. The additional residents in their parish will also increase their precept but it will be Thorpe Willoughby who will have to improve our amenities and without CIL or increased precept I am not sure how this is sustainable, it is genuinely concerning. Deficiency in social facilities – Thorpe Willoughby has one primary school and can take 315 pupils, with a current capacity of 261. Hambleton Primary school

can take 210 pupils, with a current capacity of 180. With new houses bring extra children and due to the location of the build the catchment area would be Thorpe Willoughby School which would not be able to cope with a high influx of new starters, similarly with Hambleton.
Unfortunately, there are also a further two planned developments for the village: 2022/1410/OUTM – Barff Lane and at consultation stage land north of Leeds and east of Harry Moor Lane, Leeds Road – opposite to the outline application being observed. When considering if all three applications are successful the material considerations will be three times as bad for our village."

7.3. **NYC Archaeologist:** 3/5/2023 Recommends that archaeological field evaluation takes to properly assess the archaeological potential and the impact of the proposal on its significance. In the first instance this should take the form of a geophysical survey followed by trial trenching if significant anomalies are revealed, prior to determination of the application.

18/9/2023 Following submission of a geophysical survey and trial trenching there are no objections or further comments.

7.4. **NYC Ecologist:** 20/4/2023 Recommends a Condition to adhere to the ecological mitigation measures set out in sections 4.3 and 4.4 of the EcIA. The BNG assessment predicts that a net gain of 11% can be delivered for area-based habitats contingent on an area of habitat creation outside but adjoining the red line boundary. A net gain of 81% is projected for hedgerow units. These calculations will need to be repeated at reserved matters stage, when landscaping and layout plans have been finalised, but they indicate that the proposed development is capable of delivering BNG in line with policy. Concerns are raised regarding impacts on ancient woodland at Brayton Barff.

11/10/2023 Previous advice regarding Brayton Barff is reiterated.

9/5/2024 The ecology team remain concerned about the impact of increasing recreation pressures upon Brayton Barff ancient woodland SINC. However, following the Inspectors decision at Barff Lane, Brayton it is considered that these applications would not present a conflict with paragraph 186c of the NPPF related to irreplaceable habitats. However, there is a need for these developments to maximise the use of open space on site for recreation, with options for walking on site and connecting to offsite public rights of way or permissive paths. Circular routes with signage and waste bins incorporated across these developments may assist in mitigating an increased footfall upon Brayton Barff.

7.5. **NYC Environmental Health:** 24/4/2023 The noise impact assessment is noted and conditions recommended regarding noise mitigation. The air quality assessment is noted and a condition recommended. Conditions regarding a construction environmental management plan, working hours and piled foundations are recommended to mitigate impacts upon local residents.

15/3/2024 The applicant should provide an odour assessment in relation to the pig farm to the north.

13/6/2024 In view of Odour Assessment ref: 24-0254 dated May 2024, there are no further objections so far as odour potential from the nearby piggery is concerned.

7.6. **NYC Landscape Architect:** 10/7/2023 I support the principles contained within the Landscape strategy, in particular, for example, the use of large-species trees to contribute to sense of place, however the landscape design principles do not appear to translate into the Illustrative masterplan nor the design content of the Design and access statement. There is a high risk of the landscape principles being watered down as the scheme progresses. For example, the provision for street trees within the DAS cross-sections appears to be unworkable; and there is a dis-connect between the indicative street trees shown on the Illustrative Masterplan and those shown on the Landscape strategy plan. The types and locations of open space appear to be suitable. Most of these are steered by surface water management, which could impact on their design quality and functional value. As a result, the recreational offer provided by the proposed development appears to be limited. The central open space is very small, so I question the strength of its impact and value. It should be larger. Robust protection of the existing mature Oak trees along the perimeter of the site is inadequately addressed. There is a risk of conflict which could affect the welfare and longevity of the trees. Whilst this is only an outline application, it is important to be cognisant of the above concerns which make the illustrative masterplan unworkable, and therefore, I would advise, not acceptable. To address these concerns, with an aim to achieve a design standard that could be supported, would result in a reduction in housing numbers/types.

7.7. **NYC Lead Local Flood Authority:** 19/6/2023 1. Runoff Destinations Discharge to a surface water sewer, highway drain or other drain. The applicant has stated that the properties will discharge their surface water at a controlled rate to the surface water sewer. However, this has not been agreed with Yorkshire Water. We would also like to see any conversations that have been ongoing regarding gaining access to 3rd party land to discharge to the nearest watercourse – this way the LLFA can see an effort has been made to adhere to the drainage hierarchy. Further information is required. 2. Peak Flow Control The Applicant has not come to an agreement with Yorkshire Water regarding a discharge rate. The LLFA does note that the applicant has submitted plans that show the basin being constructed to allow for 40% climate change +10% for urban creep. We have also noted that within the drainage calculations provided that IH124 discharge rate has been used and not the actual area of the site in question. Further information is required. 3. Volume Control Micro Drainage calculations have been included within the application. However, as the applicant is requiring discharging into a sewer, these calculations would need to be agreed with Yorkshire Water. Further information is required. Drainage calculation design parameters are provided. An exceedance plan is required to show overland flow during an extreme flood event, exceeding the capacity of the proposed drainage system.

24/10/2023 The LLFA is now satisfied with the amended flood risk and drainage assessment approach to runoff destinations, peak flow control, designing for exceedances and maintenance. The LLFA considers a reasonable approach to the

management of surface water has been demonstrated and makes no further comment.

7.8. **NYC Local Highway Authority:** 12/5/2023 A ghost island is required as part of the proposed access. Drawing “332010129/100/002 Rev A - Proposed Site Access” (extract below) shows the gateway markings within the relocated 30 limit, not outside which requires amendment. Additional markings would be needed inside the extended 30mph to accord with the existing provision. The proposed new limit should extend beyond the two unmarked accesses either side of Leeds Road adjacent to the site. The footway site side should be widened to 3 metres to form a continuous extension to the existing combined use path located west of the site. To safeguard the possibility of future development proposals south and west of this site, the internal layout should allow for 3 metre combined use paths to be formed between the on-site infrastructure and site boundary. A construction management plan is recommended by condition. The CMP should include a condition survey before and after the development of the key local highway routes to identify damage resulting from the development. It should also ensure no surface water run-off from the site including that associated with wheel washing should be allowed to discharge into the highway. S106 funding towards improved cycling links between Brayton and Selby will be sought. Two new bus stops with shelters and lighting, 1 on each side of Leeds Road by the site, will be required along with service enhancement funding to improve the offer, including Sunday and evening services. The Applicant should identify what improvements to cycle parking and facilities can be provided by them at the nearest primary, secondary and tertiary education sites so as to support reduced car usage from the development proposal and lessen any impact from excess vehicle trip generation. Additional committed developments should be considered in the trip generation section of the TA. The only junction of concern identified is the Scott Road/ A19/ Gowthorpe four-arm signal junction, however, unlike Stantec conclude, there is mitigation required given the level of increase in projected delay and queues as a result of the development proposal, shown below. Given the signal junction is already optimised, a contribution to improve cycling into Selby will be required to help reduce demand through this busy junction. Therefore funding will be sorted through a S106 Agreement. The Landscape Strategy Plan shows a number of trees located near the access. There are concerns that the trees may obstruct visibility at the access. Please note that trees should be set back a minimum of 4.5 metres from a classified road. Leeds Road is the A1238. Visibility splays at the access should be 2.4 metres x 45 metres. Section 3.3.5 states that visibility splays are in excess of 40 metres. Please advise what visibility splay distances are actually achievable. Contributions of £5,000 will be sought for monitoring of the Travel Plan (should be £2,500). The travel plan will require updating.

7.9. 29/8/2023: Previous comments reiterated but with further justification of the need for s106 contributions for improvements to the cycle network and bus services.

7.10. 11/1/2024 Stage 1 road safety audit required for the primary access. The amended gateway markings and 30mph speed limit are necessary and acceptable. A condition regarding the gateway features is recommended. The frontage 3m wide shared footway/cycleway is noted and will be subject to a recommended condition and s278 agreement. A cycling and walking assessment should be carried out for the site in

relation to the internal layout. The proposed bus stops and their design should be subject to condition regarding their detailed design. Further commentary on trip generation is provided. Further information is required regarding the Gowthorpe junction impact assessment. Further justification for cycle route and bus service subsidy contributions is provided. The LHA notes the applicant has agreed to the £5k travel plan monitoring fee and £30K of vouchers towards e-bike purchases for residents. Travel plan feedback is provided.

25/3/2024 (letter states 28/4/2023) The road safety audit identified two problems: the first should be addressed with an amended access plan and the second has been addressed by the current access plan. Trip generation and traffic modelling in the amended transport assessment shows Gowthorpe junction deteriorating. The lack of solutions justifies alternative travel option mitigation such as cycle route, walking and bus routes. Travel plan requires amendments.

25/4/2024 Further justification for cycle infrastructure contributions.

1/7/2024 Further justification for cycle infrastructure contributions.

21/11/2024 Further justification provided for s106 contributions towards cycle improvements and bus service enhancements.

27/1/2025 The Highway Authority is now satisfied with the proposed access arrangements subject to detailed designs. The junction modelling for the primary access shows that it should run with spare capacity. Concerns were raised regarding the Gowthorpe junction in Selby and the impact the development would have on it. The applicant has tried to mitigate against any capacity issues through active travel measures, including S106 contributions towards the Thorpe Willoughby to Selby LCWIP and bus service enhancements. The emergency access will connect to Pond Lane, along with pedestrian connections. This is considered acceptable. The LPA should be aware that the location of the northern bus stop which will service the site will need to be confirmed during the detailed design and therefore a suitably worded condition is recommended. No objections are raised subject to s106 contributions and conditions. £1,265.82 per dwelling is sought to enhance the 164 bus service by providing an evening and Sunday service. £1,350.00 per dwelling is sought to contribute towards future sustainable travel improvements, providing a cycle link from Thorpe Willoughby to Selby. Conditions are recommended regarding an east bound bus stop; a programme detailing the delivery of highway infrastructure within the site; construction of adoptable roads and footways; completion of off site highway works; visibility splays to Leeds Road; details of the emergency access, shared footway/cycleway, relocation of speed limit and gateway features, and west bound bus stop; travel plan; construction management plan

7.11. **NYC Minerals and Waste Team:** 14/7/2023 There are no active quarry sites or waste facilities within 500 metres of the site and no sites have been proposed for allocation for minerals or waste activities in the Minerals and Waste Joint Plan within that 500m zone. The site is within a Minerals and Waste Safeguarding Area for sand and gravel however, does not fall within the exemption criteria stated in paragraph 8.55 of the MWJP (2022). Therefore the relevant policy to consider in this instance is:

Policy S02 Developments proposed within Safeguarded Surface Mineral Resource areas, the application should include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development. It is noted that the site is allocated in the emerging Selby Local Plan, but until the Plan is adopted it would not fulfil the exemption criteria for safeguarding.

7.12. **NYC Waste and Recycling:** 17/4/2023 It is noted layout is not proposed at this stage therefore general guidance on the eventual layout is provided and the developer will be required to pay for bins.

7.13. **NYC Strategic Planning, Children and Young People's Service:** 28/4/2023 based on 160 dwellings, contributions are sought: £152,334.00 towards school expansion places at Hambleton Church of England voluntary controlled primary school and or Thorpe Willoughby Community Primary School; £488,862.40 towards school expansion places at Selby High School; £108,326.40 towards school expansion places for special school provision; and £135,408.00 towards school expansion places for early years provision. Totalling £884,930.80.

18/10/2023 Previous comments reiterated but with further justification for early years contribution request and an explanation of alternative available funding for the mitigation sought.

8/8/2024 In July 2024, capacity is available and no primary education contribution is requested; £483,464.80 to be used for the provision of secondary education facilities at Selby High School and/or another secondary school serving the locality of the development.; £108,158.40 to be used for the provision of SEND provision at the new Selby Special School for children and young people with complex special educational needs in the areas of communication and interaction needs, including autism and speech language and communication needs; and/or cognition and learning needs (moderate/severe learning difficulties); or another school with SEND provision serving the locality of the development.; £60,606.00 towards early years provision serving the locality of the development.

1/4/2025 £492,305.45 to be used for the provision of secondary education facilities at Selby High School and/or another secondary school serving the locality of the development; £110,142.00to be used for the provision of SEND provision at the new Selby Special School for children and young people with complex special educational needs in the areas of communication and interaction needs, including autism and speech language and communication needs; and/or cognition and learning needs (moderate/severe learning difficulties); or another school with SEND provision serving the locality of the development; £61,717.50 towards early years provision serving the locality of the development.

7.14. **NHS Humber and North Yorkshire Integrated Care Board:** 3/5/2023 The development will give rise to a need for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises (Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch) or providing additional resource for a new build health development. The ICB note that the S106 contribution secured from this development would fund works at the named practice

and/or contribute towards a new development related to the Primary Care Network (PCN) that will accommodate the additional population created by the proposed development. The ICB calculate the level of contribution required in this instance to be £188,574 for 160 dwellings. Payment should be made before the development commences.

7.15. **Contaminated land consultant:** 10/5/2023 The submitted phase 1 report is acceptable. Conditions are recommended for investigation of land contamination; submission of a remediation strategy; verification of remediation works; and reporting of unexpected contamination.

7.16. **National Highways:** 24/7/2023 It is recommended that the application should not be approved until January 24 2024.

4/8/2023 Deficiencies are identified therefore the existing request for a 'Non Determination' should remain in place until January 2024 as originally written.

10/11/2023 The information submitted is still short of its previously detailed requirements. It is requested that the application should not be determined until March 8th 2024.

19/12/2023 Existing recommendation for non-determination applies.

29/2/2024 Request non-determination until April 11th 2024.

18/3/2024 Further information is required and the non-determination period remains.

11/4/2024 No objection. The agreed residual impact of the development on the Strategic Road Network in the peak periods has now been considered and given the relatively low volume of additional traffic generated, it is concluded that no further assessment is required.

7.17. **North Yorkshire Fire and Rescue Service:** 19/4/2023 No objections.

7.18. **North Yorkshire Police:** 14/4/2023 The response provides an overview of national and local policy, crime statistics, and provide design guidance.

7.19. **Selby Area Internal Drainage Board:** 18/4/2023 Generic drainage advice is provided and it would have no objection to surface water being discharged to mains sewer provided the Water Authority are satisfied.

7.20. **Yorkshire Water:** 3/5/2023 Objects because the site layout shows new tree planting within 5m of the adoptable sewerage system within the site. The presence of a surface water rising main must be taken into account in the design of the scheme.

20/10/2023 A water supply can be provided; will there be an impermeable liner to the proposed attenuation basin?; three conditions are recommended to protect the water environment and YW infrastructure namely surface water drainage details, foul water drainage details and no tree planting within 5m of the sewers.

Local Representations

7.21. Thirty objections have been received. A summary of the comments is provided below, however, please see website for full comments.

- The proposal is too big for a small village.
- Excessive housing development within the village.
- Housing development should be located in sustainable locations that minimise the need to travel and have good public transport.
- Residential amenity including loss of sunlight, noise, air pollution, light pollution, disruption and mental health impacts. Many properties in Fordlands, The Fir Trees and Pine Tree Close will have their views ruined with possible overshadowing and loss of privacy.
- Loss of views for residents of the estate to the east and increased pedestrian movement through that estate.
- Harm to the character of the area.
- Harm to ecology.
- No play area is proposed.
- Residents of the proposal may use green spaces on adjacent estates for which they do not pay for upkeep.
- Increased use of the village park with little parking.
- The affordable housing will not be affordable.
- It is unclear how electricity would be supplied.
- Traffic and highway safety issues as traffic will pass through the village. Lack of pedestrian crossings. Exacerbation of traffic queues at the railway level crossings.
- Loss of farmland, countryside and green open space.
- Cumulative impact of housing developments upon village amenities including the school, post office, bus service, childcare facilities with space, dentist and doctors.
- Lack of public transport and cycle networks both of which should be improved.
- Hambleton Railway Station could be reopened and the cycle network improved.
- Thorpe Willoughby has lost its petrol station and post office since the Core Strategy was produced.
- The development is located within Hambleton Parish but the impact will be upon infrastructure in Thorpe Willoughby. Precept will go to Hambleton parish council budget despite the development being in Thorpe Willoughby which is detrimental to the residents.
- Affordable housing residents may be without a car which is important given the lack of public transport.
- Increased flood risk and high water table.
- Brown field land and allocated sites should be built on instead of green field sites.
- Renewable energy systems should be conditioned.

8.0 Environment Impact Assessment (EIA)

8.1. 2022/1321/SCN EIA screening opinion for 170 proposed residential dwellings. The LPA confirmed the proposal is not EIA development on 9/12/2022. As such, an Environmental Statement is not required.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Loss of agricultural land
- Minerals
- Housing density and mix
- Character and appearance
- Flood risk, drainage and climate change
- Access, transport and highway safety
- Impact upon nature conservation, protected species and ancient woodland
- Affordable housing
- Recreational open space
- Contaminated land and ground conditions
- Residential amenity including odour
- Archaeology
- Noise and air pollution
- Developer Contributions

10.0 ASSESSMENT

Principle of Development

10.1. Section 38(6) Core Strategy Policy SP1 provides a presumption in favour of sustainable development which reflects that found within the NPPF. Policy SP2 provides a spatial development strategy for the location of future development within the former District. It directs the majority of new development to the towns and more sustainable villages. Selby, as the Principal Town, will be the focus for new housing. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing growth will take place appropriate to the size and role of each settlement. The Core Strategy designates Thorpe Willoughby as a Designated Service Village (DSV). Core Strategy paragraph 4.12 states “villages which are considered capable of accommodating additional limited growth have been identified as ‘Designated Service Villages’”. With regard to Designated Service Villages (DSVs), paragraph 4.27 states “The overriding strategy of concentrating growth in Selby and to a lesser extent in the Local Service Centres means that there is less scope for continued growth in villages on the scale previously experienced. However, there is insufficient capacity to absorb all future growth in the three towns without compromising environmental and sustainability objectives. Limited further growth in those villages which have a good range of local services (as identified above) is considered appropriate”.

10.2. Policy SP2 A a) confirms Thorpe Willoughby has some scope for additional residential growth to support rural sustainability and to complement growth in the Principal Town of Selby. Though the supporting text of Policy SP2 states that DSVs are suited to ‘limited further growth’, Thorpe Willoughby is one of 3 DSVs identified

as particularly sustainably located, within which growth will complement that in Selby. However, the application site is not within the development limits of the village but is within the countryside adjacent to the development limit.

10.3. Policy SP2A(c) of the Core Strategy says: *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*

10.4. Policies SP10 Rural Housing Exception Sites and SP13 Scale and Distribution of Economic Growth do not apply to the proposal nor are there other special circumstances.

10.5. The site lies outside the development limit of Thorpe Willoughby, within the open countryside. In this regard the type and location of development proposed would conflict with Policy SP2.

10.6. NPPF paragraph 11 sets out the presumption in favour of sustainable development which states "**11.** Plans and decisions should apply a presumption in favour of sustainable development…….. For decision-taking this means:….. d) where…… the policies which are most important for determining the application are out-of-date [8], granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance[7] provides a strong reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination [9]."

10.7. Policies SP2 and SP5 are the most important for determining the application and are out of date because the LPA cannot demonstrate a five year supply of deliverable housing sites. Furthermore, Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. There is a 2.6 year supply based on the latest standard method calculation. No NPPF policy relevant to the areas or assets noted in NPPF foot note 7 would provide a strong reason to refuse development. These are "(7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change." The adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits as described in paragraph 11d ii, with particular regard to the key policies. These are defined in footnote 9 as "(9) The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and

115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12." These are detailed in the relevant sections below. Therefore, the presumption in favour of sustainable development applies to the proposal.

10.8. It is still possible to give weight to development plan policies even if they are considered out of date. As set out in NPPF paragraph 232, due weight should be given to policies, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). NPPF paragraph 61 states "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed……. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community." The hierarchy outlined within Policy SP2 itself remains soundly based on an understanding of the role and function of different settlements within the former District. However, continued strict application of Policy SP2A(c), which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

10.9. There remains a requirement to consider the impact on the character and appearance of the area and other technical matters as detailed below.

10.10. In respect of sustainability, the village contains a primary school, public house, a village hall, a church, two general stores, a hairdressers, coffee shop and deli, hot food take-away, a pharmacy and sport and recreation facilities which include playing fields. It also benefits from a somewhat limited bus services to Selby and Leeds. In terms of access to services and facilities and a choice of mode of transport, the site can be considered as being in a fairly sustainable location with some alternatives to car-based travel. NPPF paragraph 84 which restricts isolated dwellings does not apply, nor does paragraph 91 which relates to main town centre uses.

Section 149 of The Equality Act 2010

10.11. Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.12. The development of the site for residential purposes would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics and could in the longer term have a positive effect.

<u>Loss of Agricultural Land</u>

10.13. The site is used for arable agricultural purposes. Policy SP18 of the Core Strategy seeks to sustain the natural environment by steering development to areas of least agricultural quality. NPPF paragraph 187 states that decisions should contribute to and enhance the natural and local environment by b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Policy SP18 is consistent with the NPPF and is given significant weight.

10.14. Agricultural land is classified using grades 1, 2, 3a, 3b, 4 and 5. Best and most versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification. The Yorkshire and Humber Agricultural Land Classification indicates the site is entirely grade 3 'good to moderate' agricultural land. It does not differentiate between grades 3a and 3b. The application does not include an agricultural land quality assessment. The site is assumed to be BMV. The application site, at 5.06 hectares, is below the 20-hectare threshold within The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) above which Natural England is a statutory consultee for the loss of best and most versatile agricultural land. The permanent loss of best and most versatile agricultural land would be a form of harm arising from the proposal. Such loss would result in minor harm to the agricultural economy in the area as well as food self-sufficiency. Harm arising from the loss of agricultural land is conflict with Core Strategy Policy SP18 and NPPF paragraph 187 b) needs to be weighed in the planning balance.

Minerals

10.15. The site is within a sand and gravel safeguard area designated by policy S01 of the Minerals and Waste Joint Plan. Policy S02 requires a minerals assessment for non-exempt development. NYC Minerals and Waste Team notes there are no active quarry sites or waste facilities within 500 metres of the site and no sites have been proposed for allocation for minerals or waste activities in the Minerals and Waste Joint Plan within that 500m zone; that the site is within a Minerals and Waste Safeguarding Area for sand and gravel, and that it does not fall within the exemption criteria stated in paragraph 8.55 of the MWJP (2022); and that the relevant policy to consider is S02 which requires the application should include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development. The NYC Minerals and Waste Team notes that the site is allocated in the emerging Selby Local Plan, but due to its withdrawal it would not fulfil the exemption criteria for safeguarding.

10.16. The application includes a Mineral Assessment Desk Study Report. It considers there is a limited layer of potential mineral resource. Policy S02 permits non-mineral development such as this if, amongst other reasons, "iii) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or iv) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource".

10.17. There are dwellings immediately to the west and east, and a short distance to the south of the site. Such constraints coupled with the reported limited layer of minerals and somewhat limited scale of the site bring into question the economic viability of extracting the mineral given the need to mitigate impacts upon residents during extraction. Moreover, any on site exploitable minerals are considered to be limited in scale, safeguarding maps indicate there are ubiquitous mineral deposits elsewhere and given the recent dramatic increase in the housing need for the Council the need for non-mineral development is considered to outweigh the need to safeguard potential minerals. The proposal complies with Policy S02 iii and iv. Mineral safeguarding impacts are acceptable.

10.18. The site is identified on the Coal Authority interactive map as lying within a low-risk area for which the standing advice is to impose an informative to draw this risk to the developer's attention. The submitted coal mining risk assessment concludes no mitigation measures are required in respect of potential mining legacy considerations.

Housing Density and Mix

Density

10.19. Saved Policy H2B of the Local Plan states "Proposals for residential development will be expected to achieve a minimum net density of 30 dwellings per hectare in order to ensure the efficient use of land. Higher densities will be required where appropriate particularly within the market towns and in locations with good access to services and facilities and/or good public transport. Lower densities will only be acceptable where there is an overriding need to safeguard the existing form and character of the area or other environmental or physical considerations apply".

10.20. Core Strategy paragraph 7.80 states "The quality of design in its local context is more important than relying on a minimum housing density figure to benchmark development……. Therefore, the Council does not propose to set a development density figure in this strategic plan". Policy SP19 states residential development should "Positively contribute to an area's identity and heritage in terms of scale, density and layout".

10.21. NPPF footnote 9 requires consideration of NPPF paragraph 129 which requires "Planning policies and decisions should support development that makes efficient use of land, taking into account: (a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; (b) local market conditions and viability; (c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use; (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and (e) the importance of securing well-designed, attractive and healthy places."

10.22. Paragraph 130 encourages consideration of minimum densities “where there is an existing or anticipated shortage of land for meeting identified housing needs”.

10.23. The proposal is in outline and the submitted plans show how the site could be developed rather than how it will be developed. The precise density of the proposal will be established at reserved matters stage.

Mix

10.24. Policy SP8 Housing Mix states “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.” NPPF paragraph 64 seeks to create mixed and balanced communities through affordable housing provision. This policy is consistent with the NPPF and is given significant weight.

10.25. Paragraph 10.36 of the Housing and Economic Development Needs Assessment (HEDNA) (October 2020) states: “The ‘market’ is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time, and demand can change over time linked to macro-economic factors and local supply.” The wording of the HEDNA intends to provide an element of flexibility in the precise mix put forward within applications. The table below from the 2020 HEDNA shows the need for sizes of homes per tenure type.

Type of Housing	Size of House			
	1 bed	2 bed	3 bed	4+ bed
Market	0-10%	25-35%	40-50%	15-25%
Affordable home ownership	10-20%	40-50%	30-40%	0-10%
Affordable housing (rented)	30-40%	35-45%	15-25%	0-10%

10.26. The application form does not confirm the precise housing mix given the outline nature of the application. Therefore, in order to prevent a pronounced overprovision of a single house type and to secure a mixed and balanced community, a condition is required to ensure the precise housing mix is submitted with the reserved matters application and agreed by the LPA in order to comply with Policy SP8 and the HEDNA.

10.27. The Housing and Economic Development Needs Assessment 2020 shows there is predicted to be “A 72% increase in the number of people aged 65+ with dementia and a 60% increase in those aged 65+ with mobility problems (2020-40)”. It recommends 5% of dwellings should meet Building Regulations M4(3)- wheelchair user dwellings. The 5% figure is increased to 6% to account for minor development not making such provision. It is considered necessary to condition this to ensure housing meets future needs.

10.28. The Self-build and Custom Housebuilding Report 2024 December 2024 shows, on 30th October 2023, there were 39 individuals on the Selby register. The report also says 188 plots were permissioned between 1 April 2016 and 30 October 2023. However, there is some uncertainty going forward as to whether these permissions would count against need because the most recent appeal decisions show a need to secure self and custom build by s106 for it to count. It is prudent to consider there is a significant unmet meet in the area and that 3% of all plots as self or custom build secured in other applications would be a reasonable requirement. However, the applicant has requested that provisions are built into the s106 to remove the need for self and custom build if they are unsuccessfully marketed or if more than half the site is taken on by a registered provider of social housing. The former is in line with the treatment of other major housing sites in recent months and is unobjectionable. The latter would result in a development that potentially does not cater for the small number of self-builders that may otherwise have occupied part of the development. In this sense, the proposal may not cater for a niche element of the areas housing need. This is a form of harm to be weighed in the planning balance. The applicant's justification is that if a majority or all of the site is delivered by a registered provider as affordable housing (note this is not part of the proposal), the RP would find self and custom build plots on its development to be unacceptable due to management and control issues. While this justification is not entirely convincing, the agreed heads of terms for the s106 include the requested provisions and the potential harm is weighed in the planning balance.

Character and Appearance

10.29. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Policy SP19 requires proposals to have regard to local character, identity and context of its surroundings including settlement patterns and the open countryside. Key requirements include incorporating new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate.

10.30. NPPF footnote 9 requires consideration of paragraph 135 which requires planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, provide effective landscaping, while not preventing or discouraging appropriate innovation or change (such as increased densities). Paragraph 139 resists bad design and supports good design.

10.31. The Selby Landscape Character Assessment (November 2019) identifies Thorpe Willoughby and the application site within landscape character area 14 Hambleton Sandstone Ridge with key characteristics including being characterised by two low but distinct and densely wooded hills: Brayton Barff; and Hambleton Hough, which offer panoramic views. Key sensitivities, physical character, notes the hills are sensitive to change compared to the flatter more undulating land surrounding them and that away from the hills themselves the density of woodland may allow sensitive siting of some development though this should respect the setting of the hills.

Management guidelines for the area include: housing development around Thorpe Willoughby should be sensitively sited and designed so as to respect the setting of Brayton Barff, and so as not to significantly impact on views from these hills.

10.32. The Selby District Landscape Sensitivity Study (October 2021) considers the application site within land parcel reference TW2 in Thorpe Willoughby. This parcel is large and covers land to the south and west of the village. The landscape assessment of the parcel notes that low lying landform characterises the topography; the western boundary, including recently constructed residential development at Privet Drive, forms a stark settlement edge devoid of mature planting; the parcel does not play a role in the perception of a gap between Thorpe Willoughby and Hambleton; sections of timber post and rail fencing field boundaries parallel the A1238 afford views towards the recently constructed residential properties on Privet Drive / Pond Lane; and development of the parcel would result in the perceived incremental extension of the settlement edge to the west. All of the criteria used to assess the sensitivity of the parcel are categorised as low to medium, with one categorised as low. The landscape sensitivity study considers there are no significant variations in landscape sensitivity within the parcel. Overall development guidelines state "Development within the Parcel would continue to contain the settlement within the corridors of the A1238 and the A63 and could afford opportunities to enhance the existing harsh settlement edge at Privet Drive." The overall assessment of landscape sensitivity to development scenarios considers parcel TW2 to be of low to medium sensitivity to a 2-3 storey residential housing development, stating "Few of the key characteristics and qualities of TW1 and TW2 are vulnerable to change as a result of the introduction of the development scenario, resulting in an overall low-moderate sensitivity."

10.33. The application site comprises of one large fairly flat arable agricultural field. Approximately the eastern half of the Leeds Road frontage benefits from an established grade B hedgerow while the western half features a timber post and rail fence. The eastern site boundary abuts a relatively modern housing estate, the associated attenuation pond with young and semi-mature planting and the end of Pond Lane. The southern site boundary is marked by three category A mature oak trees, three category B alder, oak and hawthorn trees, and a section of hedgerow and groups of trees. Beyond the southern boundary is open countryside and the remnants of a pig breeding centre. Further south there is a new build housing estate and a sports association. The western boundary of the site is marked by three grade A oak trees, a grade B group of common hazel, a long grade B hawthorn hedgerow, a grade C oak tree and a grade B hawthorn. Beyond the western boundary is an access track, two dwellings set on generous plots of land and further remnants of the pig breeding centre, the western boundaries of which benefit from continuous mature landscaping.

10.34. The submitted landscape and visual impact statement considers there would inevitably be adverse effects on the open field of the application site. The assessment concludes that as a result of the existing containment of the site, there would be very limited, highly localised effects on views; and there would be no adverse effect on views from either of the two elevated Locally Important Landscape Areas at Brayton Barff and Hambleton Hough in the wider landscape. There would also only be very limited and localised effects on landscape character and potential, by year 15, for the

beneficial changes to landscape character introduced through the proposed development, to largely offset any adverse changes such that the residual effects on landscape character in the vicinity of the site would be of only minor significance. At the broader scale of the district character assessment, it is considered that by year 15, effects would be reduced to neutral.

10.35. The NYC Landscape Architect raises no concerns with the principle of the development and the resulting landscape and visual impact.

10.36. In general terms, the application site does not play a significant role in the setting of the village and its development would read as a natural extension to it without causing harmful settlement coalescence with Hambleton to the west because it would lead to the village edge being formed by the landscaped western boundaries of the existing dwellings to the west upon approach from the Leeds Road/A63 roundabout.

10.37. Overall, the site is very well contained by surrounding buildings and landscaping and only the northern boundary is fairly exposed, a situation that can be improved with a good landscaping scheme. The Leeds Road boundary hedgerow will need to be removed to accommodate the necessary highway works, including a 3m wide shared cycle/footway. A compensatory hedgerow can be planted behind it and the necessary visibility splays. Other trees and hedgerows can be protected by condition. A good landscaping scheme will, in the fullness of time, present a softer frontage to Leeds Road than currently exists, and owing to the existing dwellings to the west of the site, the landscaped western boundary of these neighbouring properties would be read as the edge of the village upon approach from the west. It is considered the site is of low sensitivity, that visual impacts would be only limited and localised, and that landscape character effects would be localised and limited, with the potential landscaping scheme likely to reduce the residual effect to only minor significance.

10.38. The design and access statement suggests “The parameter plan proposes properties of between 2 and 2.5 storey in height. The occasional 3 storey property may be located to provide greater legibility and interest across the development.” However, the applicant has not committed to having a parameters plan conditioned and the submitted parameter plan is out of step with the indicative masterplan. The storey height and broader design of the proposal will be considered at reserved matters stage.

10.39. The Council’s Landscape Architect raises concerns about the failure to translate the principles within the landscape strategy to the indicative masterplan. This is compounded by subsequent changes to the indicative masterplan without other documents being amended. Concerns include street trees, open space and tree protection. Furthermore, the indicative masterplan does not acknowledge or address the overhead power line (accurately plotted on the submitted topographical survey) that crosses the southern part of the site and potentially passes through the indicative location of some dwellings. The aforementioned basis upon which this application is to be determined, as noted paragraph 5.3, means all of these matters can be addressed at reserved matters stage.

10.40. Submitted “Technical Note Title: Tree Constraints & Outline Design” shows the significant trees and hedgerows on and around the site are restricted to the site boundary. It is possible to ensure their retention and appropriate consideration as part of the reserved matters application, aside from the northern boundary hedgerow which will require removal to facilitate access and highway works, and a replacement planted.

10.41. The proposal would not result in significant harm to the character and appearance of the area subject to conditions. The limited harm identified should be weighed in the planning balance.

Flood risk, Drainage and Climate Change

10.42. NPPF paragraph 170 requires “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.” NPPF paragraph 173 requires a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. The proposal does not benefit from the exemption in NPPF paragraph 175. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The development plan policies are consistent with the NPPF and are given significant weight.

10.43. The application site is in flood zone 1 (low probability of flooding) for sea and river flooding, with small areas near the southern, north west and north eastern boundary within low and medium surface water flood risk areas and the vast majority of the site in very low surface water flood risk areas. The flood risk assessment pre-dates the recently revised flood maps. The only mitigation measure it proposes is to leave the small area at the southern end of the site at low risk of surface water flooding as public open space or non-habitable development. The site is at slightly more risk of surface water flooding than the FRA addresses. Therefore, it will be necessary for a ground levels condition to be attached to address surface water pooling. The Environment Agency did not reply to consultation.

10.44. The site is in an area known to be at risk of flooding therefore a flood risk sequential test is required. It is considered reasonable to restrict the area of search to within and immediately adjacent to the development limits of the village because development elsewhere would not result in the wider sustainability benefits associated with development of this nature in this location. Furthermore, this area of search is supported by the Selby District Council Flood Risk Sequential Test Developer Guidance Note - October 2019. There are no reasonably available alternative sites in this area of search at lower risk of flooding than the application site. The flood risk sequential test is passed. The exceptions test is not required.

10.45. The submitted flood risk and drainage assessment provides an indicative pumped foul water flow from the site based on the initial proposal for up to 160 dwellings. It confirms Yorkshire Water advised a foul water connection can be made to its sewer in

Dane Avenue to the south east. A comprehensive foul water drainage condition is required given the outline nature of these proposals.

10.46. The submitted flood risk and drainage assessment discounts surface water discharge to ground via infiltration due to high groundwater levels and the need to have a minimum 1m clear distance between groundwater and the base of an infiltration device (as per the requirements of The SuDS Manual C795). Having discounted the potential to connect to nearby watercourses (as they are located on land outside the developer's control), nor being unable to requisition a sewer to a watercourse (as this needs the landowners permission which they do not have), the only reasonable point of discharge is the Yorkshire Water public surface water sewer in Leeds Road. Following the submission of additional information the Lead Local Flood Authority is satisfied that the proposed surface water drainage arrangements demonstrate a reasonable approach to the management of surface water on the site and makes no further comments. Given that the proposed drainage scheme is for an indicative proposal, a comprehensive surface water drainage condition is required to appropriately serve the final reserved matters.

10.47. The generic drainage advice of Selby Area Internal Drainage Board is noted, including that it would have no objection to surface water being discharged to mains sewer provided the Water Authority are satisfied. Yorkshire Water confirms a water supply can be provided to the site and some network changes may be required. It queries whether the attenuation basins would have an impermeable liner. Given the indicative nature of this outline proposal this matter can be dealt with as part of the aforementioned comprehensive surface water drainage condition. YW recommends surface and foul water conditions. The comprehensive foul and surface water drainage conditions would capture these matters. YW recommends a condition to prevent tree planting within 5m of a sewer that crosses the site. The condition is unnecessary because this matter can be designed in at landscaping reserved matters stage.

10.48. Flood risk and drainage matters are acceptable subject to such conditions.

Access, Transport and Highway Safety

10.49. Core Strategy Policy SP15 requires the proposal should minimise traffic growth by providing a range of sustainable travel options (including walking, cycling and public transport) through Travel Plans and Transport Assessments and facilitate advances in travel technology such as Electric Vehicle charging points; and make provision for cycle lanes and cycling facilities, safe pedestrian routes and improved public transport facilities.

10.50. Core Strategy Policy SP19 requires the proposal to be accessible to all users and easy to get to and move through; and create rights of way or improve them to make them more attractive to users, and facilitate sustainable access modes, including public transport, cycling and walking which minimise conflicts.

10.51. Local Plan Policy ENV1 requires account is taken on the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction

improvements in the vicinity of the site, and the arrangements to be made for car parking.

10.52. Policy CS6 states “The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development”. The foreword to the policy states “It is equally important to ensure that, where appropriate, proposals for development incorporate measures to compensate for the consequences of development including off-site works. These may include the provision of traffic calming, footpath and cycleway links”.

10.53. Local Plan Policy T1 states “Development proposals should be well related to the existing highways network and will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer”.

10.54. Local Plan Policy T2 states “Development proposals which would result in the creation of a new access or the intensification of the use of an existing access will be permitted provided: 1) There would be no detriment to highway safety; and 2) The access can be created in a location and to a standard acceptable to the highway authority. Proposals which would result in the creation of a new access onto a primary road or district distributor road will not be permitted unless there is no feasible access onto a secondary road and the highway authority is satisfied that the proposal would not create conditions prejudicial to highway safety.” Policy T7 encourages the provision of cycle routes and parking.

10.55. NPPF paragraph 109 requires “Transport issues should be considered from the earliest stages of ……development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve: a) making transport considerations an important part of early engagement with local communities; b) ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places; c) understanding and addressing the potential impacts of development on transport networks; d) realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated; e) identifying and pursuing opportunities to promote walking, cycling and public transport use; and f) identifying, assessing and taking into account the environmental impacts of traffic and transport infrastructure – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.”

10.56. NPPF footnote 9 requires consideration of paragraph 110 which states “The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport

solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

10.57. Paragraph 115 states “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: (a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code [48]; and (d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.”

10.58. Paragraph 116 states “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, following mitigation, would be severe, taking into account all reasonable future scenarios.”

10.59. Paragraph 117 states: “Within this context, applications for development should:(a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; (d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and (e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”

10.60. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.

10.61. The application form confirms approval is sought for access matters to the site. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access as: “in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.”

10.62. This application is to be determined on the basis of the proposed site access drawing 332010129/100/002 Rev G which shows the primary vehicle access to Leeds Road via a right turn facility priority junction with 2.4m by 43m visibility splays. The access road would be 6m wide with 2m wide footways along both sides of the road. Swept path analysis of the proposed site access has been carried out for a refuse vehicle,

which demonstrates that a refuse vehicle can enter and exit the site in forward gear. The drawing also proposes a pedestrian refuge, tactile crossing points, a west bound bus stop with shelter, footways on the north and south side of Leeds Road, a 3m wide pedestrian and cycle shared surface along the site frontage, the extension of the 30mph zone with tactile road markings to the west of the site frontage with the remaining section of highway leading to the roundabout reduced to 40mph. The drawing also shows an indicative footway link from the site to Leeds Road. The indicative masterplan also shows a potential pedestrian/cycle and emergency vehicle access to Pond Lane. Both indicative links are considered essential to permeability, accessibility to public transport and emergency access in the event the primary access is blocked so a condition will require final design details are provided at reserved matters stage. The highway works shown on the proposed site access drawing can be conditioned.

10.63. With regards to existing road safety, the submitted Transport Assessment uses Personal Injury Collision (PIC) data for the most recent five-year period from 2017 to 2021 to show that only one slight injury occurred at the eastern end of the site frontage, demonstrating there are no inherent road safety issues with the current highway layout in the vicinity of the site.

10.64. With regards to walking, the TA illustrates the 1km and 2km walking catchments from the site. These walking distances are in accordance with the Chartered Institution of Highways and Transportation (CIHT) document entitled “Guidelines for Providing for Journeys on Foot” (2000), which states a preferred maximum walking distance of 2km for commuters, school trips and sightseeing. These distances have therefore been used to illustrate the catchment areas that are accessible on foot from the site. The 1km walking catchment extends east to most of Fox Lane. This brings local facilities including Thorpe Willoughby Community Primary School, a GP surgery, a convenience store, post office, a food and drink outlet, and recreational space within a 1km walk of the proposed development site. The 2km walking catchment extends to the entirety of Thorpe Willoughby, adding walking access to more local facilities at the southern end of Fox Lane and along Field Lane. Also within this catchment is Brayton Barff. It has therefore been demonstrated that with the proposed pedestrian facilities, the site would be highly accessible on foot to local facilities within Thorpe Willoughby.

10.65. With regards to cycling, the TA shows 3km and 5km cycling catchment areas from the site and the National Cycle Routes. Within 3km, all of Thorpe Willoughby and most of Hambleton to the west can be accessed. The 3km catchment also extends east to include the westernmost parts of Selby and Brayton. The 5km catchment encompasses the entirety of Brayton to the northeast and most of Selby (including the rail station) is accessible except for the easternmost parts. Selby offers a broad range of retail, leisure and employment facilities. Multiple supermarkets and other commercial opportunities, including banks and leisure facilities can be located in Selby. It has therefore been demonstrated that the site is highly accessible by cycle for both local trips within Thorpe Willoughby, and longer trips to access facilities in the surrounding settlements.

10.66. The traffic implications of the proposal detailed below, emphasise the need to ensure cycling and bus enhancements are secured to mitigate the impacts but there is also a

general requirement to encourage sustainable travel. The only junction of concern identified is the Scott Road/ A19/ Gowthorpe four-arm signal junction. However, unlike the TA concludes, there is mitigation required given the level of increase in projected delay and queues as a result of the development proposal. Given the signal junction is already optimised, a contribution to improve cycling into Selby will be required to help reduce demand through this busy junction and to encourage sustainable travel. The LHA are requesting a contribution towards improving cycle links between Thorpe Willoughby to Selby which is identified in the Selby Local Cycling and Walking Infrastructure Plan (LCWIP) with the aim of providing a safe cycling route. The LHA seeks S106 funding of £1350 per dwelling towards improved cycling links between Thorpe Willoughby and Selby. Comparisons with other Council's has highlighted that £1350 per dwelling contribution towards cycling is accepted and this amount was accepted in appeal APP/U2750/W/23/3327616 in Brayton.

10.67. With regards to bus provision, the nearest bus stop to the site is on Leeds Road approximately 570m east of the proposed site access served by Arriva Bus services 64/64S and 164. These services operate on the same route between Selby and Sherburn in Elmet, via Thorpe Willoughby; however, the 164 continues into Leeds.

10.68. Using the proposed new bus stops, NYC Highways require service enhancement funding to improve the offer, including Sunday and evening services. NYC's Passenger Transport Team have advised that the most appropriate enhancement to the Thorpe Willoughby bus service would be to provide an evening and Sunday service for a 5 year period. The cost of which would be £1,265 per dwelling.

10.69. Selby Railway Station can be reached by cycle and bus.

10.70. The traffic assessment and additional technical notes demonstrates that the proposed development of up to 145 residential units is forecast to generate the following trips, to which the LHA and National Highways raise no objections:

Table 1: NH Forecast Vehicle Trip Generation

Time Period	Arrivals	Departures	Totals
AM Peak Hour	24	86	110
PM Peak Hour	53	27	80

Source: JVJV response Table 5: Residual multi-modal trip generation

10.71. Updated operational assessment of the proposed Leeds Road site access junction and off-site highway junctions with the updated trip generation and addition of two committed developments has been provided for the following junctions: Proposed site access priority junction; Existing A63/Leeds Road (A1283) three-arm roundabout junction; and Existing Scott Road/ A19/ Gowthorpe four-arm signal junction.

10.72. The assessment demonstrates the A63/Leeds Road roundabout junction will operate with significant reserve capacity with no queuing waiting to turn right into the site or waiting to exit the site during the weekday morning and evening highway network peak hours for both the 2026 and 2031 Assessment Traffic Flow scenarios.

10.73. The existing Gowthorpe junction will exceed capacity in the 2026 and 2031 future year Base and Assessment scenarios; and it has been demonstrated that the traffic impact associated with the committed development causes the junction to fail. The addition of the two extra committed developments worsens the operation of the junction. The addition of the proposed development traffic will add to this.

10.74. National Highways raises no objections to the proposal. The LHA raises no objection to the proposal subject to developer contributions and a series of conditions which have been amalgamated and simplified where required. A travel plan monitoring fee of £2,500 is also required.

10.75. The access, transport and highway safety implications of the proposal are acceptable subject to conditions and developer contributions secured by s106 agreement.

Impact upon Nature Conservation, Protected Species and Ancient Woodland

10.76. Local Plan Policy ENV1 requires account is taken of the potential loss, or adverse effect upon, significant wildlife habitats.

10.77. The foreword to Core Strategy Policy SP2 states the protection and enhancement of biodiversity and natural resources is a basic principle of national planning guidance, which can also influence the location of development. Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by promoting effective stewardship of the District's wildlife by a) safeguarding international, national and locally protected sites for nature conservation, including SINCs, from inappropriate development. b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

10.78. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 193 requires when determining planning applications, local planning authorities should apply the following principles: a) 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; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Natural England and Forestry Commission 'standing advice' for ancient woodland emphasises this

policy and requires consideration of direct and indirect effects. The advice notes the latter includes “increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland or tree root protection areas; and increasing damaging activities like….the impact of domestic pets”.

10.79. The development plan policies are consistent with the NPPF and are given significant weight.

10.80. The application includes a biodiversity net gain assessment technical note that sets out BNG should be achievable on-site based on the initial illustrative masterplan and that an off-site area will be required to achieve 10% BNG. The NYC Ecologist considers the assessment indicates the proposal is capable of delivering BNG but that calculations will need to be resubmitted at reserved matters stage. A condition will secure this.

10.81. The application includes an Ecological Assessment Report (EAR). The desk study confirmed that no statutory or non-statutory designated areas, are present within or adjacent to the site. The site contains an arable field, other neutral grassland, scrub, trees and hedgerows. These habitats were assessed as being of ‘less than Local’ ecological value. The habitats within the site are considered suitable to support common and widespread protected and notable species, including breeding birds, foraging and commuting bats, hedgehog and terrestrial invertebrate assemblages. Avoidance and ecological mitigation measures have been included within the indicative scheme design. Additional ecological enhancements have also been proposed. Due to the limited ecological value of the site, no significant adverse effects as a result of the proposed development have been identified. As a consequence, no residual effects are anticipated and no cumulative or in combination effects will arise in relation to ecology as a result of the proposed development.

10.82. The NYC Ecologist recommends a condition requiring adherence to sections 4.3 and 4.4 of the EAR. This will be controlled by an overarching ecological condition.

10.83. The NYC Ecologist initially raised concerns about recreational impacts on ancient woodland and Brayton Barff SINC. Subsequent comments reiterate concerns but concede that following the Inspectors decision at Barff Lane, Brayton APP/U2750/W/23/3327616 (appendix B) which note the lack of an evidential base for the LPA to quantify harm to these sites, it is considered that this application would not present a conflict with paragraph 186c of the NPPF related to irreplaceable habitats. The focus should instead be on providing suitable on-site open space at reserved matters stage.

10.84. The impact upon nature conservation, protected species and ancient woodland is acceptable subject to conditions.

Affordable Housing

10.85. Policy SP9 Affordable Housing seeks to achieve a 40/60% affordable/general market housing ratio within overall housing delivery; in pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the

total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more; the tenure split and the type of housing being sought will be based on the Council's latest evidence on local need; and an appropriate agreement will be secured at the time of granting planning permission to secure the long-term future of affordable housing. The actual amount of affordable housing, or commuted sum payment to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

10.86. The Developer Contributions SPD (2007) contains a section called "affordable housing for local needs" which is considered to have been superseded by the Affordable Housing Supplementary Planning Document (2014). The Affordable Housing SPD states "1.4 The latest Strategic Housing Market Assessment (2009) ("SHMA") identifies the scale of need for affordable housing in the District over the Local Plan period. The SHMA establishes an overall target of 30-50% intermediate housing and 50-70% social rented housing. To meet identified need, affordable housing needs to be the right kind of housing in the right locations. Following the introduction of the Government's Affordable Rent category, the Council will be gathering evidence to establish the identified need and tenure split of rented housing. This will be set out through a combination of this SPD, future Strategic Housing Market Assessments (SHMAs) and future development plan documents (as appropriate).……6.3 Negotiations on affordable housing provision on specific sites will also be informed by any further up to date evidence, which will include the latest Strategic Housing Market Assessment (SHMA), current information from the Selby District / North Yorkshire Housing Register, and evidence of existing affordable housing provision in the locality, including the Census 2011."

10.87. There is a Strategic Housing Market Assessment Update dated February 2019 but this has been overtaken by the more recent Housing and Economic Development Needs Assessment October 2020. Pages 13-15 and 125 of the HEDNA state:

- "When looking at the need for affordable homes to rent, we suggest a need for 141 affordable homes per annum."
- "The majority of the rented need is for social rented housing, although there is also a role for affordable rent."
- "It is not recommended that the Council have a rigid policy for the split between social and affordable rented housing."
- "There are some households likely to be able to afford to rent privately but who cannot afford to buy a suitable home. However, there is also a potential supply of homes within the existing stock that can contribute to meeting this need. It is thus difficult to robustly identify an overall need for affordable home ownership products."
- "If the Council does seek to provide 10% of housing as affordable home ownership (the default figure suggested in the NPPF), then it is suggested that shared ownership is the most appropriate option. This is due to the lower deposit requirements and lower overall costs (given that the rent would also be subsidised)."
- "There is no basis to increase the provision of affordable home ownership above the 10% figure currently suggested in the NPPF and indeed does

provide evidence that the 10% figure could be challenged if the Council wished to do so."

- "However, it does seem that many households in Selby are being excluded from the owner-occupied sector. The analysis would, therefore, suggest that a key issue in the District is about access to capital (e.g. for deposits, stamp duty, legal costs) as well as potentially mortgage restrictions (e.g. where employment is temporary) rather than simply the cost of housing to buy." (page 125).

10.88. NPPF paragraph 65 permits affordable housing to be sought on major developments such as this. NPPF footnote 9 requires consideration of Paragraph 66 which expects that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Footnote 31 states "The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need."

10.89. Policy SP9 provides a broad basis for securing affordable housing and is consistent with the NPPF. The Selby Local Plan and CIL Viability Assessment (August 2022) shows high value areas where 20% affordable housing is recommended and low value areas where 10% affordable housing is recommended. These zones follow Parish boundaries. A Parish boundary splits the application site in broadly in two, with the northern half being within the 20% Thorpe Willoughby Parish and the southern half being within the 10% Hambleton Parish. A pragmatic approach in these circumstances is to request 15% affordable housing.

10.90. Affordable housing and viability matters were explored in an appeal decision dated 30th January 2025 for a site in Hambleton reference APP/U2750/W/24/3347885 (appendix C). The inspector set out:

- The maximum 40% affordable housing in Policy SP9 is derived from an assessment in around 2009.
- However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (Selby Local Plan & CIL Viability Assessment (2022) to inform Policy HG7 in the emerging Selby Local Plan, and this says it considers a greenfield delivery of 20% affordable housing to be viable in that area of Thorpe Willoughby.
- Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report when compared to that informing the Core Strategy, the Inspector considered this report constitutes a material consideration to which was given significant weight in his assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks 'up to a maximum' of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

- The appellants viability appraisal showed with an 18% profit, 10% affordable housing was viable. The Council considered 30% affordable housing was viable due mainly to differing opinions regarding gross development value and abnormal costs.
- Such appraisals involve subjective judgements. Neither is necessarily wrong. The appellants proposal of 10% would be in line with the Aspinall Verdi report. That report did not say 10% is the starting point for negotiations for a higher percentage. Such an approach would remove any certainty or confidence from the process.
- The Inspector favoured the appellants use of historic sales values from the specific settlement, adjusted by index linking, rather than those from nearby villages.
- The Inspector found in favour of the appellants approach to viability.
- The Inspector dismissed the Council suggestion that affordable housing levels be revisited at reserved matters stage because there would be no need to have undertaken such work at outline stage and in his opinion delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward.

10.91. The same matter was considered in an appeal decision dated 20th February 2025 (Appendix D) at land east of Broadacres, Mill Lane, Carlton reference APP/U2750/W/24/3347833. The Inspector considered “11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal where the Inspector Ref: APPU2750/W/24/3347885 considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved.”

10.92. The application proposes 15% affordable housing. Affordable housing should be secured as percentages given the outline nature of the proposal means the final number of dwellings may change at reserved matters stage. The new NPPF does not require First Homes but it is possible for applicants to propose them. In light of the recent appeal decisions it is considered appropriate to accept the proposed affordable housing because it aligns with the most up to date viability evidence that supported the now withdrawn emerging local plan. This is in accordance with Policy SP9.

10.93. Overall, affordable housing policy requirements are as follows:

- 15% affordable housing with a tenure split of 65% affordable rent and 35% shared ownership.

10.94. The applicant has agreed these percentages. A s106 agreement will secure this affordable housing.

Recreational Open Space

10.95. Policy RT2 requires the proposal to provide recreational open space at a rate of 60sqm per dwelling on the following basis “provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision. Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.” The NPFA is now known as Fields in Trust.

10.96. The Developer Contributions Supplementary Planning Document 2007 provides further guidance on the provision of open space.

10.97. The NPPF at paragraphs 96 and 98 advises that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs for example through the provision of safe and accessible green infrastructure and the provision and use of shared spaces such as open spaces. Paragraph 103 reinforces the importance of access to open space, sport and physical activity for health and wellbeing. Policies should be based on robust and up to date assessment of needs and opportunities for new provision.

10.98. Policy RT2 is considered consistent with the NPPF and is given significant weight.

10.99. A condition will require the reserved matters application to provide 60sqm of open space per dwelling. It is also considered necessary to condition a local area for play (LAP) for toddlers and younger children and a local equipped area for play (LEAP) to cater for slightly older children. A s106 will secure implementation, ownership and maintenance of play areas and all recreational open space. These matters are acceptable.

Contaminated Land and Ground Conditions

10.100. Policy ENV2 of the Local Plan states “Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.” Part B of the policy allows contaminated land conditions to be attached to permissions.

10.101. Core Strategy Policy SP18 seeks to protect the high quality of the natural and man-made environment by ensuring that new development protects soil, air and water quality from all types of pollution. This is reflected in Policy SP19 (k), which seeks to prevent development from contributing to or being put an unacceptable risk from unacceptable levels of soil or water pollution or land instability.

10.102. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 198 requires decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so Council's should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 199 requires decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

10.103. These development plan policies are consistent with the NPPF and are given significant weight.

10.104. The contaminated land consultant confirms the Phase 1 Ground Conditions Assessment is acceptable. The report recommends that a Phase 2 intrusive investigation is carried out to confirm the site's condition and its suitability for residential use. Conditions are recommended regarding investigation of contaminated land; submission of a remediation strategy; verification of remediation works; and reporting of unexpected contamination.

10.105. In light of the above and subject to suitable conditions, it is considered that the proposal would not breach Convention rights contained in the Human Rights Act 1998 in terms of the right to health and right to private and family life.

<u>Residential Amenity including Odour</u>

10.106. Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1. Significant weight is given to this policy as it is broadly consistent with NPPF paragraph 135 (f) which seeks to ensure a high standard of amenity for existing and future users.

10.107. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

10.108. The application site is located in the countryside to the west of Thorpe Willoughby and there are residential dwellings to the east and west. It will be possible at reserved matters stage to ensure a layout, scale and appearance of proposed dwellings that has appropriate separation distances between each other and to existing dwellings and their gardens.

10.109. The proposed land use is considered compatible with surrounding land uses. No harm would arise to residential amenity from the traffic generated by the proposal. Construction disturbance would be minimised by a construction management plan, development hours and piling conditions as recommended by Environmental Health. These are amended and amalgamated where necessary.

10.110. Oaklands Farm has operational pig units located approximately 350m to the north west of the application site. An odour assessment has been submitted. Taking into consideration the findings of the odour sniff testing surveys, the prevailing meteorological conditions and the predicted odour concentrations in the area, it was considered that odours from the pig farm would not significantly influence amenity within the site. The site was therefore considered suitable for residential use with regard to odour and no mitigation measures are required to protect residential amenity within the site. Environmental Health have considered the assessment and raise no objections. Furthermore, the disused pig breeding centre buildings immediately to the south west of the site are not considered to pose a significant risk to residential amenity.

10.111. On this basis it is considered that the scheme is acceptable in terms of the residential amenity impacts and accords with Policy ENV1 and the NPPF.

Archaeology

10.112. Policy ENV28 requires that where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/evaluation to be submitted as part of the planning application; where development affecting archaeological remains is acceptable in principle, the Council will require that archaeological remains are preserved in situ through careful design and layout of new development; where preservation in situ is not justified, the Council will require that arrangements are made by the developer to ensure that adequate time and resources are available to allow archaeological investigation and recording by a competent archaeological organisation prior to or during development.

10.113. NPPF paragraph 207 requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The development plan policy is consistent with the NPPF and is given significant weight.

10.114. The applicant has provided the results of a geophysical survey and archaeological trial trenching. Subsequently, the NYC Archaeologist raises no objections to the proposal. Archaeological impacts are acceptable.

Noise and Air Pollution

10.115. The policies referred to in the contaminated land section above are relevant.

10.116. NYC Environmental Health have considered the noise impact assessment and note the assessment is preliminary in nature and considers whether or not the site could be suitable for its intended residential use in noise terms, pending further information at the detailed design stage. They concur with the report and recommend a condition to ensure appropriate noise mitigation is included in the final design. Environmental Health also recommend a condition to control the cumulative level of sound from the development at nearby sensitive receptors if air source heat pumps are to be used as part of the as yet unknown energy strategy. However, this condition is considered unnecessary because there are permitted development rights for such installations at domestic properties and restricting their use in this way is considered unreasonable.

10.117. The submitted air quality assessment forms a review of baseline conditions and assesses the likely significant air quality effects as a result of emissions associated with operational road traffic generated by the proposals. The report concludes that there are no anticipated exceedances of National Air Quality Objectives, therefore, the impact is considered to be 'negligible'. NYC Environmental Health raises concerns that the proposals will have a negative impact on AQMA1 located along New Street, Selby from increased NO2 emissions associated with increased trip generation. The Trip Rate Information Computer System (TRICS) data relevant to additional vehicle trip generation is provided within the Transport Assessment and identifies increased vehicle movements through AQMA1 and they do not feel that the applicant has sufficiently offset the impacts through proportionate mitigation, for example Electric Vehicle (EV) charging provision. Therefore, they would recommend a condition to secure an emission mitigation statement. However, the Building Regulations now require EV charging provision for each dwelling which makes the condition unnecessary. Therefore, the air quality impacts of the proposal are considered acceptable.

10.118. NYC Environmental Health also recommend conditions regarding a construction management plan, construction hours and piled foundations. Noise and air pollution matters are acceptable subject to such conditions, amalgamated as necessary.

10.119. Subject to the above and suitable mitigation through reserved matters approval and planning conditions, it is considered that the proposal would not breach Convention rights in the Human Rights Act 1998 in particular the right to health and the right to private and family life.

Developer Contributions

10.120. Local Plan Policy ENV1 requires account is taken of the capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure.

10.121. Policy CS6 states "The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development".

10.122. Policy SP12 requires where infrastructure and community facilities are to be implemented in connection with new development, it should be in place or provided in phase with development and scheme viability. They should be provided on site, or if justifiable they can be provided off site or a financial contribution sought. Opportunities to protect, enhance and better join up existing Green Infrastructure, as well as creating new Green Infrastructure will be strongly encouraged, in addition to the incorporation of other measures to mitigate or minimise the consequences of development. This will be secured through conditions or planning obligations.

10.123. The Developer Contributions SPD provides further guidance regarding contributions towards waste and recycling facilities; education facilities; and primary health care facilities amongst others.

10.124. NPPF paragraph 34 requires plans to set out the contributions expected from development. Paragraph 100 confirms “It is important that a sufficient choice of early years, school and post-16 places are available to meet the needs of existing and new communities.” Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requires planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

10.125. These development plan policies are consistent with the NPPF and are given significant weight.

10.126. NYC Children and Young People's Service seek contributions of £492,305.45 towards school expansion places at Selby High School and/or another secondary school serving the locality of the development; £110,142.00 to be used for the provision of SEND provision at the new Selby Special School or another school with SEND provision serving the locality of the development; and £61,717.50 towards early years provision serving the locality of the development. A formula to be used in the s106 is provided to capture the number of dwellings with two or more bedrooms at reserved matters stage to which contribution requirements would apply.

10.127. NHS Humber and North Yorkshire Integrated Care Board consider the development will give rise to a need for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises (Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch) or providing additional resource for a new build health development. The ICB note that the S106 contribution secured from this development would fund works at the named practice and/or contribute towards a new development related to the Primary Care Network (PCN) that will accommodate the additional population created by the proposed development. The ICB calculate the level of contribution required in this instance to be £170,895 (for 145 dwellings).

10.128. The Developer Contributions SPD requires a S106 agreement requiring the developer to pay for 4 x 240 litre wheeled bins at a price of £65 per dwelling.

10.129. These contributions are justified and CIL regulation compliant and would need to be secured by s106 with appropriate triggers for payment.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

11.2. However, the Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.3. Adverse impacts include limited and localised visual and landscape character harm; the loss of a modest amount of best and most versatile agricultural land with resultant minor harm to the agricultural economy and food self-sufficiency; minor loss of potential mineral resources; potential lack of provision for self and custom builders, and conflict with the development plan.

11.4. Neutral matters include the flood risk sequential test is passed, the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; and education, healthcare and bin contributions are secured to ensure no detriment is caused.

11.5. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a

significant contribution to needed market and affordable housing (great weight is given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems; the scheme will provide contributions to enhance bus services and cycle facilities which benefits existing and future residents; a biodiversity net gain and ecological enhancements are secured; provision of open space and play areas that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

11.6. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior completion of a s106 agreement.

12.0. RECOMMENDATION

12.1 It is recommended that planning permission be granted subject to prior completion of a section 106 agreement securing the matters listed below and the conditions listed below:

S106:

- 15% of the total number of dwellings to be affordable housing, with a tenure split of 65% affordable rent and 35% shared ownership.
- 3% of the total number of dwellings approved at reserved matters stage shall be self or custom build, unless following marketing of such plots for a period of time and in a manner agreed with the LPA they are not sold in which case they can be sold on the open market; or a Registered Provider takes on 50% or more of the dwellings approved at reserved matters stage.
- Implementation, ownership and maintenance of play areas and all recreational open space.
- £1266 per dwelling towards bus service enhancements in proximity to the site to improve the offer to residents, including Sunday and evening services.
- £1350 per dwelling is requested for cycle infrastructure improvements in proximity to the site.
- £2,500 towards travel plan monitoring.
- £3,395.21 per dwelling with two or more bedrooms towards facilities at Selby High School and or another secondary school serving the locality of the development.
- £759.60 per dwelling with two or more bedrooms towards provision at the new Selby Special School or another school with SEND provision serving the locality of the development.
- £425.63 per dwelling with two or more bedrooms towards early years provision serving the locality of the development.
- £1,178.58 per dwelling for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises at Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch or providing additional resource for a new build health development.
- 4 x 240 litre wheeled bins at a price of £65 per dwelling.

Conditions:

1. Details of access (within the site), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

3. Unless otherwise amended under the conditions below, the development shall be in accordance with drawing 2251.02.LP Rev B Location Plan and the access details shown on drawing 332010129/100/002 Rev G Proposed Site Access.

Reason: For the sake of clarity and in the interests of proper planning.

4. No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:
a) The points of access to be used.
b) The area for loading/unloading plant and materials.
c) The area for storing plant and materials.
d) Any security hoarding around or within the site.
e) Wheel washing facilities.
f) Measures for controlling the emissions of dust.
g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.
h) The positioning of any gates to the site.
i) External lighting.
j) The hours of working and deliveries.
k) An assessment of potential construction impacts upon the ground water source protection zone and mitigation measures.

The development shall then be implemented in accordance with the approved details and timetable.

Reason: In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment in pursuance of Policy ENV1 of the Selby District Local Plan.

5. If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure the orderly delivery of development in pursuance of Policy ENV1 of the Selby District Local Plan.

6. The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the Local Planning Authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall be carried out in accordance with the approved details.

Reason: To ensure a mixed and balanced community is created in pursuance of Policy SP8 of the Core Strategy and the Housing and Economic Development Needs Assessment (HEDNA) (October 2020).

7. Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

Reason: To secure appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in pursuance of Policy ENV1 of the Selby District Local Plan.

8. Accompanying the Reserved Matters, engineering details of the western pedestrian access from the site to Leeds Road as shown on approved plan 332010129/100/002 Rev G; and the pedestrian/cycle and emergency vehicle access to Pond Lane as shown on Indicative Masterplan 01A, along with a timetable for the implementation of those details and measures and a scheme for their intended management shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be installed in accordance with the approved timetable and these accesses shall thereafter be retained and managed in accordance with the approved management scheme.

Reason: To secure a permeable development with appropriate footways and accesses constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all users in pursuance of Policy ENV1 of the Selby District Local Plan.

9. Prior to the first use of the vehicular access to the site off Leeds Road, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.

Reason: In the interests of highway safety in pursuance of Policy T2 of the Selby District Local Plan.

10. No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.

Reason: To secure a development with appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all users in pursuance of Policy ENV1 of the Selby District Local Plan.

11. Prior to the first occupation of any dwelling hereby permitted, the off-site highway works detailed on approved plan 332010129/100/002 Rev G shall have been completed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To secure a development with appropriate roads, footways and cycleways constructed to an adoptable standard and to encourage sustainable transport options in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

12. Prior to the first occupation of any dwelling hereby permitted, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include: -

- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
- a programme for the delivery of any proposed physical works;
- effective measures for the on-going monitoring and review of the travel plan;
- a commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;
- effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan.

Reason: To establish measures to encourage more sustainable non-car modes of transport in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

13. With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning

authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details that prevent environmental pollution in pursuance of Policy SP18 of the Core Strategy.

14. With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development in accordance with SUDS principles shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details in pursuance of Policy SP15 of the Core Strategy.

15. With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination in pursuance of Policy ENV2 of the Selby District Local Plan.

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

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

17. With the submission of Reserved Matters, a Biodiversity Mitigation and enhancement Strategy (BMES), including construction phase matters, shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, and shall additionally include: a) an updated Biodiversity Net Gain Assessment showing a net gain; b) a 30 year management and monitoring plan; c) implementation timetable

and d) sensitive lighting scheme. The development shall be carried out and thereafter managed in accordance with the approved BMES.

Reason: In order to prevent harm to protected species and ensure net gain for biodiversity in pursuance of Policy SP18 of the Core Strategy.

18. With or before the submission of Reserved Matters, a written scheme for protecting the proposed noise sensitive development from noise shall be 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 55 dB LAeq (16 hours) 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 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. Construction work shall not begin until a written scheme for protecting the internal environment of the dwellings from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the building envelope of each plot is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved shall 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 LAmax 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 of prospective residents and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE), Policy SP19 of the Core Strategy and Policy ENV2 of the Selby District Local Plan.

19. Accompanying the Reserved Matters, an Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 (‘Trees in relation to design, demolition and construction’), or any superseding British Standard, including a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.

Reason: To secure incorporation of existing trees into the development in pursuance of Policy SP19 of the Selby District Local Plan.

20. The reserved matters application(s) shall include details of existing and proposed ground levels across the site and related finished floor levels of dwellings for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To prevent dwellings being subject to surface water flooding in localised depressions in ground levels in pursuance of Policy SP15 of the Core Strategy.

21. The reserved matters application(s) shall provide 60sqm of on-site public open space per dwelling, and design details of a local area for play (LAP) and a local equipped area for play (LEAP).

Reason: To secure public open space and play facilities in pursuance with Policy RT2 of the Selby District Local Plan.

22. Notwithstanding the submitted details, prior to the first occupation of any dwelling herby permitted details of the location and design of a new east bound bus stop on Leeds Road shall have been submitted to and approved in writing by the Local Planning Authority. The details approved shall be completed prior to the first occupation of any dwelling hereby permitted.

Reason: To establish measures to encourage more sustainable non-car modes of transport in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

Target Determination Date: 2/5/25

Case Officer: Martin Evans, martin.evans@northyorks.gov.uk

Appendix A – Indicative Masterplan 01A
Appendix B - Appeal decision APP/U2750/W/23/3327616 Brayton
Appendix C – Appeal decision APP/U2750/W/24/3347885 Hambleton
Appendix D - Appeal decision APP/U2750/W/24/3347833 Carlton
Appendix E – Location Map

Vistry Group

APPENDIX A

KEY

1. PRIMARY VEHICLE ENTRANCE FROM LEEDS ROAD
2. PEDESTRIAN, CYCLE, CONNECTION
3. POTENTIAL PEDESTRIAN / CYCLE AND EMERGENCY VEHICLE ACCESS TO POND LANE
4. GREENSPACE ALONG LEEDS ROAD
5. RETAINED BUFFER PLANTING AND TREES
6. CENTRAL GREENSPACE
7. SOUTHERN GREENSPACE
8. PROPOSED SUDS BASIN
9. EXISTING SUDS BASIN
10. PROPOSED PUMPING STATION
11. EXISTING PUMPING STATION

KEY PEDESTRIAN ROUTES

AMENDED DRAWING

01 A

INDICATIVE MASTERPLAN | OCT 2023 | 1:500 @ A0

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The Planning Inspectorate

Appeal Decision

Inquiry held on 9-11 and 16 January 2024

Site visit made on 17 January 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th February 2024

Appeal Ref: APP/U2750/W/23/3327616
Land off Barff Lane, Brayton, Selby, North Yorkshire YO8 9GR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by the Middlebrook Family, Stanley Middlebrook Trust and Gladman Developments Limited against the decision of North Yorkshire Council.
- The application Ref 2022/1410/OUTM, dated 29 November 2022, was refused by notice dated 15 May 2023.
- The development proposed is the erection of up to 95 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point from Barff Lane.

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 95 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point from Barff Lane at Land off Barff Lane, Brayton, Selby, North Yorkshire YO8 9GR, in accordance with the terms of the application, Ref 2022/1410/OUTM, dated 29 November 2022, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. A framework plan was however also submitted, showing the way that the site would be generally subdivided and laid out. This plan assists interpretation of the submitted Section 106 Agreement (S106), and the main parties have agreed that it should form the subject of a condition. Accordingly, it has informed my assessment below.

3. The Council is working on a new Local Plan (the emerging Plan). Whilst this has previously reached Regulation 19 stage, the Council intends to rerun the consultation following administrative change. Given the stage reached I can attach limited weight to the emerging Plan's policies. Insofar as it remains relevant, I shall however refer to it in my assessment below.

Main Issues

4. The main issues are:

   - whether the site is a suitable location for the development having regard to its effect on: (a) the delivery of planned growth, and (b) the character and appearance of the area; and

- the effect of the development on Brayton Barff Site of Importance for Nature Conservation (SINC).

Reasons

Location

(a) *Planned growth*

5. Policy SP2 of The Selby District Core Strategy 2013 (the Core Strategy) sets out the Council's spatial development strategy. This directs development to settlements based on their position within a hierarchy, and to locations within defined development limits, outside of which development is restricted. This is further elaborated within Policy SP5 of the Core Strategy which provides a table of housing figures and a proportional split between different settlements and tiers within the hierarchy. Within this context Brayton is identified as a Designated Service Village (DSV). Though the supporting text of Policy SP2 states that DSVs are suited to 'limited further growth', Brayton is one of 3 DSVs identified as particularly sustainably located, within which growth will complement that in Selby. The latter is the Principal Town within the hierarchy.

6. The site lies outside the development limit of Brayton, within the open countryside. In this regard the type and location of development proposed would conflict with Policy SP2.

7. The development limit was however defined in 2005, and a footnote to Policy SP2 envisaged a review. This would have been required to accommodate the growth outlined within Policy SP5, and in conjunction with the production of a 'Site Allocations Local Plan'. Neither was completed. Consequently, aside from old allocations made by the Selby District Local Plan 2005 (the Local Plan), the Council has been increasingly reliant upon windfall development. There has also been an accompanying acceptance that much of this must be delivered on sites outside defined development limits.

8. The results are visible on the west side of Brayton, where, to the east of the site, there is now no direct relationship between the designated development limit and the edge of the built-up area. Within this location the development limit has indeed ceased to provide any coherent or meaningful distinction between the built-up area of Brayton and the open countryside. Thus, whilst the site's designation as open countryside under Policy SP2 continues to reflect reality, the development limit itself does not. As such, I attach very little weight to the appeal scheme's conflict with Policy SP2.

9. Insofar as one of the original purposes of the development limit was to assist in protecting the countryside from encroachment, the scheme's effects otherwise stand to be assessed against the more general provisions of Policy SP18 of the Core Strategy. I shall return to this in my consideration of character and appearance below.

10. Policy SP5 sets out minimum indicative housing figures. These too are now out of date given both the age of the Core Strategy and a shift to the standard method of calculating housing need. The hierarchy outlined within Policy SP2 itself remains soundly based on an understanding of the role and function of different settlements within the former District. Little change in this hierarchy is indicated within the emerging Plan. But though the proportional split outlined within Policy SP5 obviously reflects the hierarchy, it cannot be used as anything

more than a broad yardstick given that the outdated figures within Policy SP5 form an interrelated set.

11. Policy SP2 provides no distinction between the 18 settlements classified as DSVs, despite recognition of differences in their level of sustainability and relationship with Selby, as noted above. This appears reflected in the amount of growth which has occurred in Brayton during the plan period. The proposed development would add to this growth. However, there is no suggestion from the Council that this would affect the function of Brayton or its role within the hierarchy, or that local services and facilities are in any way incapable of supporting such growth. I see no reason to reach a different view. Indeed, subject of obligations within the S106 the development could be absorbed without any adverse effect.

12. As such, if the development would result in some mild deviation from the proportional split envisaged by Policy SP5, this would not result in any obvious harm. Even if a deviation was held to be of some significance it might only be temporary. This is because it cannot be expected that growth beyond the minimum figures outlined within Policy SP5 would be delivered across the settlement hierarchy at an even rate.

13. The Council has highlighted the fact that the housing need calculated using the standard method results in an annual requirement lower than is set out with Policy SP5. However, this makes no difference to my findings above.

14. In summary, for the above reasons the appeal scheme would not undermine the spatial development strategy as outlined within Policies SP2 and SP5, or therefore the delivery of planned growth. Insofar as limited conflict would arise with Policy SP2 in relation to the development limit, I attach very little weight to this conflict. I shall return to this in concluding on the issue below.

(c) *Character and appearance*

15. The roughly rectangular field which comprises the majority of the site lies immediately north of Barff Lane. Its east side is starkly defined by the close boarded fence of an adjacent housing development, whilst its south side is unenclosed. The overgrown embankment of a dismantled railway line runs along the north side of the site, whilst a gappy hedgerow encloses the west. Individually, the site presents an unremarkable and somewhat degraded character, but one which is obviously distinct from that of the adjacent built-up area of Brayton.

16. The built-up area of Brayton is defined by a generally straight north-south edge to either side of Barff Lane. The straightness of this edge, together with the layout, density and landscaping of the recent housing developments to which it relates provide a distinct point of entry and exit to the settlement, but an abrupt transition in character. Further to the north and south the edge cuts away sharply, accentuating what has been described as a distinctive 'indentation' of the settlement edge. The overall irregularity this provides on the west side of Brayton is particularly apparent from Mill Lane and from the public right of way across farmland to the north of the site linking Brayton with Thorpe Willoughby (the PROW). This limits the extent to which the built-up area is currently perceived as 'compact'.

17. The proposed development would extend linearly beyond the existing straight edge of the built-up area. This would however occur at much the same depth as existing development on the north side of Barff Lane immediately to the east. In common with the latter, the north side of the proposed development would be defined and enclosed by the former line of the dismantled railway. This would in turn accentuate the existing indentation of the settlement edge, as perceived from the PROW. From vantage points along the PROW the visual presence of development would be increased despite screening, particularly when walking westward. But the effect would be brief, and a clear sense of transition from an urban to a rural landscape would remain. So too would the appreciable gap of open agricultural land which separates Brayton from Thorpe Willoughby.

18. The westward projection of the development would appear more noticeable and somewhat less well integrated with the existing built-up area when viewed from the south. This would be due to the openness of land on the opposite side of the road, and a lack of alignment with the existing straight settlement edge to the south. The latter would be pronounced even within the context of overall irregularity. Any potentially adverse effects could however be satisfactorily addressed by careful layout and landscaping. The suggested buffering and enclosure of the development using trees and hedges would appear appropriate within context and would provide a soft transition between the built-up area and its open setting. This could in turn help to address the insensitive physical and visual character of the existing settlement edge. In this regard I have been provided with no reason to believe that the edge would see any improvement in the absence of the development.

19. A distinctive wooded hill known as Brayton Barff lies towards the southwest of the site. The hill is visible across a wide area due to the prevailing flatness of the surrounding landscape. Within this context its visual character and distinctiveness is perceived and accentuated with reference to the open agricultural fields which partly surround it. The site forms one of these fields.

20. Given the geographical extent of the setting, the quality of views towards Brayton Barff from within it inevitably varies. The most notable views are those within which the visual continuity of the agricultural landscape surrounding Brayton Barff is not obstructed or broken by intervening features. These are qualities apparent in public views from Mill Lane, from Barff Lane, and from sections of the PROW further to the northwest of the site. However, they do not distinguish the views available from within or across the site, or from the section of the PROW immediately to the north. This is due to the intervening presence of Barff Lane and the vegetated embankment of the dismantled railway. In the absence of any right of public access to the site, views from within it are otherwise private, as are views across the site from adjacent dwellings. As a component of the broader landscape setting of Brayton Barff, the role played by the site is therefore of less value than that of other land.

21. This broadly reflects the findings of the 2019 *Selby District Local Landscape Designation Review*, which forms the basis for the emerging Plan's proposed Hambleton Hough and Brayton Barff Locally Important Landscape Area (LILA). The LILA would see 2 geographically limited existing designations merged and expanded, taking in the most important parts of the setting of Brayton Barff. This would exclude the site and land immediately to the north.

22. The development would not have any adverse effect on the ability to appreciate the character of Brayton Barff within the unobstructed public views noted above. The development would partly obstruct visibility of Brayton Barff from the PROW. However, the fact that views are already largely obstructed by the vegetated embankment of the dismantled railway, and that views of much higher quality exist a short distance to the west, means that this would not cause any unacceptable harm.

23. The development would be visible within limited views from the permissive path around the perimeter of Brayton Barff itself. Again, views from the path extend across a broad area and are variable in terms of their quality and coverage. Whilst the titanic form of Drax Power Station is a striking component of views from the east side of Brayton Barff, the built-up area of Brayton also has a strongly established presence. This is again accentuated by the absence of any meaningful planting along the existing settlement edge. The open fields south of Barff Lane would continue to provide the foreground in any view of the proposed development, and as considered above, careful landscaping of the development would help to soften both its appearance and that of the existing built-up area of Brayton. As such the appeal scheme would not have any unacceptable effect on the ability of visitors to Brayton Barff to appreciate its position within the landscape, or the relative tranquillity and wildness of its woodland.

24. In summary the development would not cause any unacceptable harm to the character and appearance of the area. As such no conflict would arise with Policy SP18 of the Core Strategy insofar as this seeks to safeguard the natural environment including the landscape character and setting of areas of acknowledged importance.

(d) *Conclusion*

25. For the reasons set out above I conclude that notwithstanding limited conflict with Policy SP2 of the Core Strategy, the site is an appropriate location for the proposed development having regard to its effects on the delivery of planned growth, and the character and appearance of the area. In these regards, my findings above indicate the acceptability of the location considered against the development plan taken as a whole.

Brayton Barff SINC

26. The majority of Brayton Barff is in the private ownership of Yorkshire Water, with the remainder owned by the Council. It is largely covered by mixed deciduous woodland, most of which is designated as ancient, and within which there are a number of veteran trees. This in turn forms the basis for Brayton Barff's local designation as a SINC.

27. Brayton Barff is advertised by YW as a place to visit, and its topography, woodland cover and seasonal show of bluebells adds to its attractiveness. This is amplified in context by the predominately open and flat landscape setting. Given that the site lies a reasonably short distance from Brayton Barff, and given their linkage by road and footpath, it is likely that active future occupants of the development would visit. Setting aside all other possible variables, a slight overall increase in visitor numbers might therefore be anticipated, thus giving rise to a slightly increased level of visitor impact.

28. The National Planning Policy Framework (the Framework) identifies ancient woodland as an irreplaceable habitat. It further states that development resulting in loss or deterioration should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

29. Any single visit to an ancient woodland by a member of the public for recreational purposes would give rise to some form of impact. That impact might be adverse. There is however no stated position in national policy or guidance that the public should be prohibited from accessing ancient woodland on that basis. Indeed, the Forestry Commission's 2010 practice guide, *Managing Ancient and Native Woodland in England* (the Practice Guide), highlights the value of ancient woodland for recreation, and encourages the provision of permissive access. The Planning Practice Guidance (PPG) likewise identifies recreational opportunities in relation to green infrastructure, including woodland.

30. Insofar as the Standing Advice published by the Forestry Commission and Natural England includes impacts arising from public access amongst the ways in which deterioration can occur, the Practice Guide explains that almost all recreational activities can be a problem if carried out intensively. There is however no established threshold at which deterioration of ancient woodland can be held to occur. In relation to existing woodland condition, the PPG further indicates that this can usually be improved with good management. Balancing recreational use with conservation is clearly an important role of management, which is in this case the responsibility of the landowners.

31. Given the above, public access to ancient woodland for recreational purposes cannot be considered possible in principle without some form of impact which logically falls short of 'deterioration'. Were this not the case then a simplistic linkage of impact with deterioration would form a basis to refuse any development which might lead to an additional visit. Establishing when deterioration might be said to occur therefore ultimately requires an evidence-based understanding of the processes at work, as too an appreciation of the role played by management.

32. The available visitor survey data for Brayton Barff is both limited and incomplete. The woodland does however closely abut the built-up area of Thorpe Willoughby, is directly linked to Brayton by footpaths, and a car park allows for visits from within the broader area. The latter appeared well used during my visit, even in near freezing conditions. As such, and given the character of Brayton Barff, I have no reason to question claims that it receives a high number of visits.

33. The woodland can be freely accessed through use of a public right of way and a permissive surfaced path. Other informal paths through the woodland also exist, and access to them is not restricted. The fact that many of the paths are shown on Ordnance Survey mapping implies that they are well established. As is typical of any path with an unmodified earth surface, these informal routes will have experienced inevitable surface erosion and likely compaction, as will other spaces accessed within the woodland. Some possible trampling and nutrient enrichment by dog waste is also likely. However, the specific extent and degree of any harm caused, over what period, how this relates to visitor numbers, behaviour, and the attributes of the woodland, and what role

management does or could play, is unclear. Indeed, I have been presented with little more than anecdotal evidence relating to these matters.

34. The Council's view that the ancient woodland at Brayton Barff is incapable of absorbing any net increase in visits without deterioration is presented simply as 'common sense'. But it is not raised within either the existing development plan or the emerging Local Plan, including its draft allocations for Brayton which could also yield additional visits. Nor does it appear to have impeded the approval of other developments within the immediate vicinity, including those directly adjacent to the site.

35. The appellants' own assessment adds little given that it provides no more than a generic list of potential visitor impacts. Its finding that some additional impact would arise if visitor numbers increased simply states the obvious, much as discussed above. As such, the appellants' assessment does not serve to substantiate the Council's position. Nor can the appellant be reasonably expected to compensate for the Council's lack of evidence by providing that evidence themselves.

36. The appellants' proposed provision of directly accessible circular walking routes across adjoining land, and linking the development to existing public rights of way, would in any case provide alternative scope for outdoor recreation. Given the reportedly limited availability of walking routes within the surrounding area, the benefits of this would be likely to extend beyond future occupants of the development, to existing residents within adjacent parts of Brayton. Whether or not some of the latter informally access the site and adjacent fields at present, the provision of permissive access and a properly formed path would be attractive to a broader population.

37. In summary, based on the limited evidence set before me, past unrestricted access to Brayton Barff has led to inevitable visitor impacts which may have caused some degree of harm. Whilst these impacts do not appear to be fully understood, it is likely that both they and the existing condition of the woodland could be addressed by improved management. Given the popularity of the location for recreational use a slight net increase in visitor numbers could potentially result from the development, and all such visits would have an impact. The likelihood of this would however be reduced by the provision of alternative walking routes, and I have been provided with no reason to believe that any residual increase in visits would result in deterioration.

38. Based on my findings above, and insofar as it would help to meet one objective set out within Policy SP19 of the Core Strategy, the obligations within the S106 relating to provision of 'permitted paths' pass the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework (the tests).

39. However, an obligation within the S106 securing a financial contribution towards funding of wide-ranging management measures at Brayton Barff, does not. Though the measures might well be useful, there is no basis within adopted policy or guidance for me to assess the proportionality of the proposed contribution, and no management strategy which would provide a context for application of the specified measures has been set before me. My findings above furthermore indicate a current lack of evidence justifying a need for such a contribution. As the obligation does not pass the tests, it cannot be taken into

account. This does not alter my overall view of the acceptability of the development.

40. For the reasons set out above I conclude that the development would not have an unacceptable effect on Brayton Barff SINC. The development would not therefore conflict with Policy SP18 of the Core Strategy which amongst other things seeks to safeguard national and locally protected sites for nature conservation, including SINCs, from inappropriate development; or saved Policy ENV1 of the Local Plan which seeks to secure a good quality of development, taking into account effects upon wildlife habitats. Insofar as the Council again cited conflict with Policy SP2 of the Core Strategy in relation to this matter, it has little direct relevance.

Other matters

41. Planning permission was partly refused on the basis that the development would entail the loss of best and most versatile agricultural land (BMVL). The existing status of the site is however uncertain as it is broadly classified as 'Grade 3', whereas only Grade 3a land qualifies as BMVL. The Council has otherwise withdrawn its assertion of conflict with Policy SP18 of the Core Strategy given the amount of BMVL available locally, and the requirement for its use to deliver future development. Whilst I recognise the broader benefits of BMVL, most particularly where its presence is proven, I see no reason to take a different view. The minor harm that would potentially result from the loss of a small amount of BMVL, which would be clearly outweighed by the broader social and economic benefits of housing provision, does not alter my view of the acceptability of the development.

42. Interested parties have raised concern that a loss of open green space would have adverse effects on mental health, including in relation to persons who are neurodivergent. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have had due regard under Section 149 of the EA 2010 of the requirement to take steps to meet the needs of persons who share a protected characteristic. As outlined above, the site largely consists of open green space, but the public currently has no right of access. The development would on the other hand involve provision of publicly accessible open space within the site, and the provision of permissive paths would improve the quality and level of public access to other open green spaces within the immediate area. The net effects would therefore be overwhelmingly positive. The site forms a component of the outlook from a small number of dwellings within the housing estate abutting the site to the east. Though the loss of a private view is not generally a consideration capable of attracting weight, change might nonetheless be disruptive. In this regard the Framework Plan shows scope for landscaping along the eastern edge of the site, thus providing some potential improvement in immediate outlook. A construction method statement would additionally help to ensure that scope for disturbance during the construction process was minimised. Change would itself occur gradually given the time likely to be taken to develop the site. For this and the above reasons I am satisfied that the development would not give rise to any unacceptable adverse impact on persons who share a protected characteristic, or in relation to the mental health of the local population more generally.

43. Interested parties have raised various additional concerns not shared by the Council. These include flooding, drainage, loss of privacy, harm to ecology, pressure on local services, and the potential for adverse effects on use of the highways. Whilst there would be no obvious scope for unacceptable loss of privacy, other identified matters can be satisfactorily addressed by condition, by mitigatory measures secured within the S106, and through the reserved matters.

44. The S106 contains a range of obligations in addition to those considered above. These secure the provision of affordable housing, including first homes, in accordance with Policy SP9 of the Core Strategy and national policy; the provision of on-site open space and play facilities in accordance with Policy RT2 of the Core Strategy and the Developer Contributions Supplementary Planning Document 2007 (the SPD); the payment of a contribution towards local healthcare provision calculated in line with national formulae; the payment of a contribution towards the provision of bins in line with the SPD; contributions towards a Traffic Regulation Order reducing the speed limit on Barff Lane, the provision of a bus shelter, and improvement of cycle links, all in accordance with saved Policy T1 of the Local Plan and Policy SP15 of the Core Strategy; and the payment of a monitoring fee, as provided for by the PPG. I am satisfied that the above obligations pass the tests.

45. At appeal the adequacy of the Council's demonstrable supply of deliverable housing sites was challenged by the appellants, and it was additionally asserted that the policies most important for determining the application were out of date. The matter was subject of evidence and discussion at the Inquiry, and to the extent that it is relevant, I have considered the outdatedness of development plan policies above. Given that I have already found that the appeal scheme would comply with the development plan taken as a whole, further consideration of the above matters is unnecessary.

Conditions

46. A range of conditions have been proposed and were subject of discussion at the Inquiry. Having further regard to the PPG, I have reworded and rationalised the content of the conditions as necessary, and as set out below.

47. Conditions (1) – (4) are standard conditions identifying the reserved matters; the timescale for submission of details and commencement of the development; and identifying of the approved access plan for sake of certainty.

48. Condition (5) accommodates a number of proposed conditions relating to on-site ecological mitigation, enhancement and management. The condition is required to ensure that effects in relation to on-site biodiversity, and species using the site are acceptable.

49. Condition (6) secures provision of a detailed Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement in line with the recommendations of the appellants' Arboricultural Impact Assessment Report, thus helping to safeguard existing trees.

50. Condition (7) accommodates a number of proposed conditions relating to drainage and is required in order to ensure that the development is properly drained.

51. Condition (8) is imposed to ensure that details submitted in relation to the reserved matters of landscaping and layout are generally governed by the submitted framework plan.

52. Condition (9) is imposed to ensure that recommendations within the submitted noise report are incorporated within the scheme layout, and to secure standards of construction that will protect future occupants from road noise.

53. Condition (10) secures measures to addresses an identified risk of contamination, whilst Condition (11) covers the possibility of unforeseen risks. Each is imposed in the interests of health and safety. Condition (10) is required pre-commencement given that risks will arise from the outset.

54. Condition (12) secures a scheme of further investigation of on-site archaeology, the presence of which was confirmed by a geophysical survey. A pre-commencement condition is required given that the deposits would most likely be destroyed by construction.

55. Condition (13) secures a construction method statement which is required in the interests of neighbour amenity and highway safety. A pre-commencement condition is again required as adverse effects could arise from the outset.

56. Condition (14) accommodates a number of suggested conditions relating to highways delivery and technical matters and is required to ensure appropriate construction and highway safety.

57. Condition (15) secures provision of a Travel Plan in the interests of promoting sustainable travel.

58. Condition (16) secures the delivery of off-site highways works not otherwise secured by the S106, which are required in the interests of highways safety.

59. Though a condition seeking to secure a hedgerow on other land in the same ownership was proposed, the condition risks being unenforceable should ownership change. The hedge formed a component of the permitted paths scheme as originally proposed, but it is not detailed in the S106. I am however satisfied that it is not an essential component of that scheme.

Conclusion

60. Exercising due regard under section 149 of the EA 2010, I conclude that for the reasons set out above the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

1) Details of appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) Insofar as it details the site access, the development hereby permitted shall be carried out in accordance with the following approved plan: 3662-F01 Rev J.

5) Prior to or in conjunction with the first reserved matters application a Biodiversity Mitigation and Enhancement Strategy (BMES) shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be informed by the Ecological Impact Assessment ref. CSA/6114/06 Rev.B, and shall additionally include:
   a) an updated Biodiversity Net Gain Assessment;
   b) a bat-friendly lighting strategy addressing both the construction and occupation phases of the development; and
   c) a management plan.

   The development shall be carried out and thereafter managed in accordance with the approved BMES.

6) Prior to or in conjunction with the first reserved matters application a detailed Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, including a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.

7) Prior to or in conjunction with the first reserved matters application, a site drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall be informed by the submitted Flood Risk Assessment and Outline Surface Water Drainage Strategy ref. 680553-R1(01)-FRA, and shall include:
   a) details of how surface water and silt run-off from the site will be managed during construction;
   b) a plan indicating how exceedance flows will be safely managed; and
   c) details of arrangements for the adoption and maintenance of the surface water drainage system.

   The approved scheme shall then be implemented prior to the first occupation of the dwellings hereby permitted.

8) Details submitted in relation to the reserved matters of layout and landscaping shall be governed by the Development Framework Plan ref. CSA/6114/107 Rev.F.

9) Details submitted in relation to the reserved matter of layout shall be informed by the recommendations of the submitted Noise Assessment Report. They shall be additionally accompanied by a revised specification of the constructional measures necessary to safeguard future occupants of the development from external road noise for approval in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved specification.

10) The development hereby permitted shall not commence until a scheme that addresses the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
    a) A revised preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
    b) A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
    c) The results of the site investigation and detailed risk assessment, 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.
    d) 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 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

    The scheme shall then be implemented as approved.

11) Any previously unidentified contamination that is found during construction of the development hereby permitted shall be immediately reported to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

12) Prior to the commencement of the development hereby permitted an archaeological Written Scheme of Investigation (WSI) shall be submitted to and approved by the Local Planning Authority. The WSI shall be informed by the submitted Heritage Desk-Based Assessment and Geophysical Survey, shall include an assessment of significance and research questions, and shall detail:
    a) a programme and methodology of further site investigation and recording;
    b) a programme of post-investigation assessment;
    c) the provision made for analysis of the site investigation and recording;
    d) the provision made for publication and dissemination of the analysis and records of the site investigation;
    e) the provision made for archive deposition of the analysis and records of the site investigation; and
    f) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

    The development shall then be undertaken in accordance with the approved WSI, and shall not be fully occupied until the post-investigation assessment has been completed, and provision has been made for analysis, publication and dissemination of results, and for archive deposition.

13) Prior to the commencement of the development hereby permitted a Construction Method Statement (CMS) shall be submitted to and approved in

writing by the Local Planning Authority. The CMS shall be fully compatible with the BMES approved in relation to Condition 5 and the TPP and AMS approved in relation to Condition 6, and drainage measures approved in relation to Condition 7(a), and shall include details of:

a) any temporary construction access to the site;
b) parking of vehicles for site operatives and visitors;
c) areas for loading, unloading and storage of plant and materials;
d) details of hoardings/security fencing;
e) measures to control the emission of water, dust and dirt;
f) measures to minimise light, noise and vibration nuisance;
g) waste management measures;
h) hours of work, including deliveries;
i) management of arrivals and departures including HGV routing; and
j) contact details of the person responsible for overseeing the CMS.

Construction of the development shall then proceed in accordance with the approved CMS.

14) Prior to the commencement of the development hereby permitted, a programme detailing the delivery of highway infrastructure within the site shall be submitted to and approved in writing by the Local Planning Authority. The programme shall include:

a) the phasing/timetabling of works;
b) engineering drawings showing construction details of roads, footways, and any structures which will affect or form part of the highway;
c) the provision of pedestrian visibility splays measuring 2.0 metres x 2.0 metres down each side of the site access and the back edge of the footway; and
d) provision made for roads and footways to be at constructed to binder course macadam level/paved (as applicable), kerbed, connected to the existing highway network and lit prior to any related dwellings being occupied.

The development shall then be carried out in accordance with the approved programme, and the pedestrian visibility splays shall thereafter be retained and kept free from obstruction.

15) Prior to the first occupation of the development hereby permitted, a Travel Plan based on the principles set out in the submitted Travel Plan Framework dated May 2023 shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall then be implemented as approved.

16) No part of the development hereby permitted shall be occupied until the off-site highways works detailed on approved plan 3662-F01 Rev J have been implemented in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

APPEARANCES

For the Appellants

Christian Hawley	Counsel for the appellants, No.5 Chambers

He called:

Silke Gruner	(Character and appearance) Iceni
John Mackenzie	(Planning) Gladman Developments Limited
Aidan Marsh	(Ecology) CSA
Ben Pycroft	(Housing supply) Emery Planning

For the Local Planning Authority

Ian Ponter	Counsel for the Local Planning Authority

He called:

Julia Casterton	(Ecology) North Yorkshire Council
Helen Golightly	(Character and appearance) North Yorkshire Council
Richard Wood	(Planning/Housing supply) Richard Wood Associates Limited

Additional contributions from:

Linda Drake	(Planning) North Yorkshire Council
Glenn Sharpe	(Legal) North Yorkshire Council

Interested Parties

Paul Acass	Local resident
Derek Cooper	Friends of Brayton Barff
Mark Crane	Local Councillor
Joan Dockery	Local resident
Stacy Gouldson (with son)	Local resident
Jennifer Hubbard	Local resident
Gale Levko	Local resident
Emma Piggot	Local resident
Edward Roberts	Local resident

INQUIRY DOCUMENTS

ID1 The Appellants' Opening Statement

ID2 The Local Planning Authority's Opening Statement

ID3 Letter to PINS from Hallam Land Management

ID4 CIL Compliance Schedule

ID5 Disputed Sites Table

ID6 Brayton Barff Mitigation Costings

ID7 Draft Planning Conditions

ID8 4 Year Housing Land Supply Calculations

ID9 Email from Persimmon

ID10 The Local Planning Authority's Closing Statement

ID11 Housing Land Supply Addendum to the Local Planning Authority's Closing Statement

ID12 The Appellants' Closing Statement

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Planning Inspectorate

Appeal Decision

Hearing held on 27 November 2024

Site visits made on 26 & 28 November 2024

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/U2750/W/24/3347885
Land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Hallam Land Management Ltd, Messrs T & M Hey and Mrs D Hey against North Yorkshire Council.
- The application Ref is 2022/0665/OUTM.
- The development proposed is the development of up to 156 dwellings and associated landscaping and infrastructure works.

Decision

1. The appeal is allowed and planning permission is granted for the development of up to 156 dwellings and associated landscaping and infrastructure works at land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG in accordance with the terms of the application, Ref 2022/0665/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. As originally submitted the proposal was to be for *'circa 156 dwellings'*. However, the description was changed while the application was being considered to that given above, to confirm that 156 dwellings would be the maximum.

3. This is an outline scheme with all matters but access reserved for later consideration. I have therefore treated any details relating to landscaping, layout, scale and appearance as illustrative but informative. Moreover, at this stage the principal access to the site only is being considered. However, access within the site will be determined at a later stage and, as they are influenced by the scheme's internal layout, details of the pedestrian and emergency accesses to Mill Lane will be considered through conditions.

4. Government guidance and policy are found in the *National Planning Policy Framework* (the Framework), and the version dating from December 2023 was in place when the appeal submissions were prepared and the Hearing held. On 12 December 2024 a revised version of the Framework was issued, which superseded the one from 2023, and it is against this 2024 version that I have considered the appeal.

5. At the time of the Hearing the Council had an emerging local plan called the *Selby Local Plan* (the eLP), which it was proposing to take forward to

examination. However, following the publication of the revised Framework, the relevant Council Committees have resolved that work be halted on the eLP. In the light of this, it can be afforded no appreciable weight in the decision-making process, as there is now great uncertainty as to whether the policies and allocations it contains will ever be part of the adopted development plan.

Main Issues

6. The main issues in this case are

   a) whether the development is acceptable in principle;

   b) its effect on the supply of agricultural land;

   c) its effect on the character and appearance of the area and heritage matters;

   d) whether this is a sustainable location;

   e) the impact on highway safety;

   f) the delivery of affordable housing,

   and, if any harm would be caused by any or all of the above,

   g) whether material considerations indicate a decision otherwise than in accordance with the development plan.

7. Of issues a) to f) only the last was raised as a point of contention by North Yorkshire Council (the Council), with the remainder arising through submissions from the Parish Council and local residents.

Reasons

The principle of the development

8. The Development Limits of Hambleton are defined in the *Selby District Local Plan* (the Local Plan), which was adopted in 2005 and is still in force. They mean that almost all of the appeal site lies adjacent to but outside of those limits, with only the access and the illustrative site for one dwelling shown as being within them.

9. Policy SP2A in the *Selby District Core Strategy* (adopted in 2013)(the Core Strategy) outlines the principles on which the location of further development will be based. Sub-section (b) of this policy says limited amounts of residential development may be absorbed inside Designated Service Villages, of which Hambleton is one. As nearly all of the site though is not *'inside'* the village (as defined by the Development Limits) this provision is not applicable. Instead, Core Strategy Policy SP2A(c) addresses development in the countryside (outside of Development Limits), and says it shall be restricted to a number of specified types. None of these apply to this scheme, so it would not be in accordance with that policy.

10. Core Strategy Policy SP5 aims to deliver 1000 houses *'in'* the 18 Designated Service Villages. However, this delivery was to be directed by a Site Allocations document that never came forward. Assuming this policy is

seeking to direct housing within the Development Limits or onto allocated sites, again this scheme does not fall under its terms.

11. Accordingly, I conclude that by being substantially outside of the Development Limits this scheme would be in conflict with Core Strategy Policy SP2.

The effect on agricultural land

12. Core Strategy Policy SP18 seeks to steer development to areas of least agricultural quality. The Framework then says there should be recognition of the economic and other benefits of best and most versatile farmland, which it defines as farmland in grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

13. The site at the moment comprises 2 large arable fields, with a complex of farm buildings in its north-western corner and meadow to the north. While it is agreed the site is within grade 3 of the ALC, it has not been confirmed whether it is of grade 3a or grade 3b standard.

14. If it falls in grade 3b, the details submitted seem to imply there are few areas in the District that are of a lesser quality, and so there would be no conflict with either Core Strategy Policy SP18 or the Framework. However, if it is in grade 3a there could well be grade 3b land elsewhere in the District and so a conflict would exist with Core Strategy Policy SP18. Moreover, taking it out of agricultural production means it could well be contrary to the Framework.

15. Accordingly, in the absence of any confirmation of the precise grade of this agricultural land, I conclude it has not been shown there would not be a conflict with Core Strategy Policy SP18 or the Framework.

Character and appearance

16. Core Strategy Policies SP18 and SP19 seek development that would protect the natural and historic environment and have regard to local character, including the open countryside. Local Plan Policy ENV1 highlights the need to consider the development in the light of features important to the character of the area.

17. The 2 fields that form the bulk of the site sit side-by-side, separated by a hedge, and run northwards from the site's southern boundary with Mill Lane. The complex of agricultural buildings at their northern end stand in a yard with equipment and apparatus associated with such a use, and they range from being relatively old and brick-built, to being large modern utilitarian structures. There is also the meadow, separated from the fields by broken planting, while the area subject of the appeal is substantially bounded by hedging of varying quality. As such, the site itself has a rural appearance that reflects that of the fields to the south.

18. While clearly the landscape around Hambleton is treasured by village residents and others, it is not a *'valued'* one under the terms of the Framework. Furthermore, it is not currently an area of tranquillity. There is a Locally Important Landscape Area (a LILA) around Hambleton Hough to the south-east. In the eLP the intention was to expand that up to the south side of Mill Lane, across the road from the development, but even if that were to occur it still would not extend into the appeal site.

19. Building a housing estate on what is now open fields and ancillary land in the countryside would be changing the rural nature of the site itself, and would be expanding the built form of the village, taking it outside of its existing visual edge that runs along the site's west side. In this regard there would be some conflict with the policies cited above. I am aware though that in localised views from Mill Lane to the south or from Gateforth Lane to the east, the site, although clearly agricultural, is seen very much in the context of the modern housing to the west, and this reduces any sense of encroachment into the countryside.

20. The Development Limits of the village come up to Mill Lane on the west side of the site and nearly to the lane to its east, but in between those they appear to run into the settlement. As a result, an area of countryside, as defined by the Development Limits, extends well into Hambleton, and this area, which comprises mainly the appeal site but includes a smaller field as well, is substantially surrounded on 3 sides by built form. Furthermore, Mill Lane and Westcroft Lane form a strong boundary along the southern side of the village. Therefore, while the scheme would constitute an expansion of the settlement into what the development plan defines as the countryside round Hambleton, when seen in the context of the wider landscape it would not be perceived as an undue expansion, or as reducing any gap to a neighbouring village. Rather, in my judgement it would be a logical extension to the existing built form.

21. Hambleton Hough, a little to the south, is one of 2 pronounced hills (along with Brayton Barff) in this otherwise relatively flat landscape. There is public access to the summit and, from there, there are extensive and exhilarating views over the surroundings. In those, Hambleton forms part of the patchwork of settlements and agricultural land that can be seen. It is apparent in the foreground as a relatively linear village near to, but separate from, both Hambleton Hough and the designated LILA.

22. Although the scheme would bring the village slightly closer to this hill and the current extent of the LILA, it would still be clearly and distinctly separate from both of them. Increasing the LILA in the manner proposed in the eLP would mean that designation would be nearer to the site than at present, but this would not result in a material change in the contribution the village makes to the landscape when seen from Hambleton Hough. I am unaware of the reasons behind the extension of the LILA, but I consider any benefit it had concerning Hambleton Hough and its setting would not be harmed by the development before me. Indeed, whilst houses to the west of the site back onto Mill Lane with their rear elevations close to the road, opportunity exists for the proposal to be an outward-facing scheme, with houses set a minimum of 20m back from the carriageway edge to maintain a softer boundary on this side.

23. In the eLP it was proposed to allocate this site for housing, with an indicative capacity of 128 dwellings, some 28 less than the maximum now proposed. However, I have little to show how the figure of 128 units was established. I accept too that, while the road layout on the illustrative plan accompanying this submission before me allows views to Hambleton Hough, the housing is sited with a certain monotony. The precise layout though is to be considered formally at Reserved Matters stage, and on the information presented I have no basis to find 156 dwellings could not be suitably accommodated.

24. The scheme would necessitate the loss of many of the agricultural buildings now on site. In views from Mill Lane and from Hambleton Hough it is mainly the larger, modern utilitarian ones that are apparent. I consider these are not particularly attractive due to their scale, their materials, and their functional design. However, as buildings clearly associated with agriculture they are a visually accepted part of the countryside. They also illustrate the village's agricultural origins, although other buildings dotted throughout the village, often more prominently and with more heritage significance, do likewise. On balance I therefore consider their loss has a neutral effect in my assessment of this issue.

25. Turning to the effect on Chapel Street, at its northern end it has 2 arms that connect with the main road through the village (the A63), with some older agricultural/commercial buildings on the central triangular island and to the west. Travelling towards the appeal site it is then bounded by relatively simple houses and cottages of various designs that reflect the age and evolution of Hambleton, with the chapel and associated Sunday school opposite the proposed access and the older Garth House beyond. Moreover, the front boundaries of these properties tend to comprise walling, often with hedging above, though the height and style of the walls varies. Despite this variety, they nonetheless accord with the character of the buildings behind. On the east side, passing the appeal site, there is a long stone wall, again often with a hedge projecting above, that runs right round to Garth House though is punctured intermittently by various driveway openings. The length and uniformity of this wall brings a certain unity to the streetscape.

26. To the south of the intended site access and beyond Garth House, the character of Chapel Street changes. With the exception of isolated examples such as Mulberry Cottage, the road becomes dominated by modern suburban housing.

27. Overall, although not a conservation area, from Garth House northwards Chapel Street reflects the village's age, and its organic growth over the centuries as a small rural settlement.

28. The scheme proposes forming the principal access to the site through this long stone wall on the east side of the road. As part of these works, sections of the wall to either side of the access would be taken down and rebuilt a little further back from the carriageway in order to widen the pavement and allow sight splays, while the existing access further south would be infilled with a sympathetic length of walling. The existing planting now behind the wall where the access is to go would be removed to facilitate the road, while the illustrative plan shows one dwelling could be built there. Otherwise, the housing development would not be prominent from Chapel Street, as it would be set well back.

29. These works would inevitably involve some change in the appearance of the streetscape. However, if the existing entrance were to be closed up and the wall rebuilt sympathetically (matters that could be controlled by condition), this change need not be harmful, but would be in keeping with the evolving nature of the road.

30. The only designated heritage asset nearby is the Grade II listed Garth House. Dating from the early- to mid-18th Century, this is a 2-storey dwelling, which was probably a farmhouse originally, and has attractive detailing in its

brickwork and windows. Although subsequently extended, these alterations do not diminish the pleasing nature of its front elevation in particular, which contribute to its special architectural and historic interest. Accordingly, its significance is partly architectural, in the detailing and proportion it displays, and partly historic, as it reflects the agricultural past of the site.

31. From the north its frontage is visible for a length of Chapel Street, as it stands near to the outside of a bend, though in my opinion it only becomes a dominant element of the streetscape when approaching the Sunday School building. In these views though I accept it has a striking presence. However, to a certain extent works in its setting have already compromised its historic significance, as it now has new housing on Chapel Close and Rosewood Vale to one side and partly behind, while a new house sits between Garth House and the site's existing access. Furthermore, as stated above, having passed Garth House Chapel Street then has the character of a modern housing area. As such, its connection to agricultural land is now very much diminished.

32. The Framework says heritage assets are an irreplaceable resource. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset, including to its setting, requiring clear and convincing justification.

33. At the rear of Garth House, some of the old range of farm buildings on the appeal site that run along much of this dwelling's boundary would be restored and retained. This would maintain the enclosure that currently exists and minimise the introduction of the modern suburban elements of the development into the rear garden area of that listed building.

34. When looking from Chapel Street, the closest parts of the scheme to the frontage of Garth House would be the infilling of the existing access to the site, and the landscaping of the area behind. As stated above, the wall would also be demolished and rebuilt further from the carriageway to either side of the new access, while any house built to the north of the access could be set back. These works though would be a suitable distance from the listed building, and would be rebuilt in sympathetic detailing. Therefore, as Garth House now stands in what is, to a great extent, a suburban context, harm would not be caused to its significance.

35. In assessing this matter I am aware it was said Garth House would be positioned between 2 roads, namely Chapel Close/Rosewood Vale on one side, and the access to the appeal site on the other. However, given the distance to the proposal's entrance, noting the intervening dwelling, and taking account of the screening effects of the retained range of buildings, to my mind that is not how the property would be perceived.

36. I am not satisfied that a condition requiring archaeological investigation is justified on this site.

37. Accordingly, I conclude the works would not harm the significance of the listed building, or fail to have regard to the desirability of preserving its special architectural or historic interest. As such, in this regard it would not conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, or the Framework.

38. However, I also conclude that some harm to the character or appearance of the countryside would result from building on these fields, though this would be limited by the manner in which the site is generally surrounded on 3 sides by built form. Nonetheless, in this regard there would be some conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, and the Framework, though beyond this I have found no harm to the wider landscape.

Sustainability

39. The Framework says significant development should be focussed on locations that limit the need to travel and offer a genuine choice of transport modes. Priority should therefore be first given to pedestrian and cycle movements and second – so far as possible – to facilitating access to high quality public transport. Overall, when applying this Government guidance, to my mind it does not mean new houses should be limited to places where all the needs of their residents could be met entirely by a choice of transport modes other than by private motorised vehicles, as there would be few if any undeveloped sites with such a level of accessibility in the District. Rather, the guidance is qualified to a certain degree, and there is an acceptance of sites being developed even though future occupiers would be reliant, to some extent, on the private car. This is acknowledged by the Framework recognising that opportunities to maximise sustainable transport solutions will vary between rural and urban areas.

40. By identifying Hambleton as one of the District's Designated Service Villages, the supporting text to Core Strategy Policy SP2 says it has *'a good range of local services'* and so can accommodate further '*limited'* growth. Indeed, only the settlements of Selby, Sherburn in Elmet and Tadcaster are deemed hierarchically superior to the Designated Service Villages, although 3 of these Designated Service Villages are highlighted as '*particularly sustainable'.* I recognise that by being outside of the Development Limits it could be argued that the hierarchy in Core Strategy Policy SP2 is not applicable. However, the policy approach gives an indication of the relative service strength of Hambleton, while the accessibility to these services is not necessarily defined by a site's position relative to Development Limits. In these regards, the policy is therefore relevant.

41. This position is reflected in the eLP, which identified Hambleton as a Tier 1 village, again below only Selby, Sherburn in Elmet and Tadcaster. Whilst work on that plan is halting, it nonetheless implies that, in the Council's opinion at least, the relative status of the village has not changed.

42. The '*limited'* growth to which Core Strategy Policy SP2A(b) refers has no definition. Although local residents consider that, when taken with other recently approved development, the scheme is disproportionate in relation to the village, the Council, in interpreting its own policy, has not said it cannot be considered as *'limited'*. Given this, and having regard to the evidence before me, this is a view I share.

43. Hambleton has a convenience store, a primary school, 2 public houses, a village hall and places of worship. Despite it being outside of the Development Limits, from the appeal site these services are reasonably accessible on foot. They are not extensive though. My attention was drawn to no health provision in the village, education above primary school level is not available, the shop, although maybe offering day-to-day top-up goods, does not cater for more

extensive retail needs, the faith options are limited and there are few opportunities for employment or entertainment.

44. Inevitably, for these, residents would need to travel further afield to larger settlements around. Given the distances involved, the nature of the roads and the limited pavements, many residents would be unable to cycle or walk to them. For others it may be possible, but the speed of traffic, the poor lighting and the nature of the pavements would make them reluctant to embark on such journeys. Indeed, even if they did so on pleasant days or when their journey was not demanding, it is unlikely they would cycle or walk those routes in inclement weather, when dark, when having a tight timescale to meet or, for example, when wanting to do a large shopping trip. Overall, few if any would regularly make these trips on foot or on a bicycle.

45. Whilst there is a bus service, this is limited with, broadly speaking, a bus in each direction every 2 hours or so through the working day, and no mid/late evening or Sunday service. As such, it offers limited opportunity to overcome the village's deficiencies in relation to these matters.

46. Given the nature of the District though, precluding sizeable housing from a settlement with this level of service provision or even slightly greater, could well result in an undue focussing of housing onto Selby, Sherburn in Elmet and Tadcaster, which is something the development plan appears to seek to avoid through Core Strategy Policy SP2A. Although the Parish Council said that Hambleton had had *'more than its fair share'* of new housing, in the absence of a policy context to say otherwise it is not for me to assess the merits of a distribution across the District, but rather to consider whether this scheme would be acceptable on this village.

47. Moreover, the appellants have sought to upgrade the attractiveness of alternative transport modes through contributions to the bus service and the cycle way in the agreement under Section 106 of the Act (the S106 Agreement). The bus contributions would constitute about 40% of the sum necessary (at today's prices) to allow more services to run in the evenings and on Sundays over the next few years. Such improvements would increase the likelihood of public transport being used. I therefore consider the contributions to be reasonable and necessary, and so would comply with Regulation 122 in the *Community Infrastructure Levy Regulations 2010* (the Regulations).

48. A cycle contribution would be put towards improving cycle links between the village and Selby, by creating a dedicated, lit, cycleway. I was told this cycleway was still at a relatively early stage, as there was some detailed design work to do, and third party land to be obtained by compulsory purchase powers, but it was hoped to start construction in the next 3-4 years. Balanced against this, I recognise that such schemes take a long time to evolve and if its delivery was imminent it would probably be adequately funded already. I accept that it is most unlikely the cycleway would be in place before the first occupation of this development. I am satisfied though that the scheme is sufficiently advanced to mean that, even if there is some slippage in the timetable I have been given, there is a reasonable prospect the cycleway will be in place soon after, and so would be available for future residents to use in the years ahead. On balance, I therefore accept that the stated contributions would also accord with the Regulations.

49. The S106 Agreement delivers a Travel Plan with its monitoring as well. That again can only be an encouragement for future residents to embark on sustainable travel, and so, once more, accords with the Regulations.

50. Drawing all the above together, I find that Hambleton offers a basic range of facilities and services that would, to a greater or lesser extent, partially meet the day-to-day needs of the future residents, and would be reasonably considered as walkable from the scheme. Furthermore, *'further limited growth'* is accepted in this village, whilst the appellants are making contributions that would, in time, encourage using modes of transport other than the car that would be a benefit to the wider community. The scheme would nonetheless result in a reliance on private motorised transport to a degree as residents travelled further afield to access what was not provided locally. On balance though, given the policy context, what is offered in the village, and its relative status in relation to other settlements in the District, I conclude the site has not been shown to be deemed an unsustainable location, and in this regard the development would not conflict with Policy SP2 in the Core Strategy, or with Core Strategy Policies SP15 and SP19, which aim to facilitate sustainable access modes.

Highway safety

51. Chapel Street is relatively straight and wide at this point, and so, once the boundary wall has been realigned, visibility for drivers leaving the site would be satisfactory. I have no reason to consider that the introduction of this access would compromise the safety of children walking along Chapel Street as they are going to or coming from the school bus, as crossing estate roads such as this is not an inherently dangerous activity, and indeed is one they would quite probably have to do anyway elsewhere in their journey to or from their home.

52. When visiting the site I saw a number of cars parked at the kerbside in connection with a children's group at the chapel, and I understand such parking often occurs for people attending events and services there. The opportunity for this would be affected to some degree by the new access. However, it could occur elsewhere along the kerbside, and Chapel Street is not heavily trafficked. Consequently, I consider that, even with the additional flows associated with this scheme, any effects on the use of the road for parking would not be unacceptable. It was suggested that, through a condition, parking spaces for the chapel users could be secured on the site in front of the agricultural buildings the appellants are proposing to retain. I have no details of this though and am not satisfied that this would not fetter, to some degree, any future uses for those buildings. In any event, given the nature of Chapel Street and its capacity for kerbside parking, it is not something that I consider is necessary to make the scheme acceptable.

53. Through the conditions there would be opportunity to ensure the emergency access to Mill Lane had adequate visibility. Although the national speed limit applies to that road, given its character I consider it unlikely that much traffic would be travelling at or near 60mph.

54. A wider concern was raised by local residents about the congested and busy nature of the road network in general and the A63 in particular, and the additional pressures that would arise because of the scheme. I accept that the A63 is busy through the village, with roughly 1100-1200 vehicle movements

during peak times. This scheme would inevitably add to those, but I have no evidence to show the residual cumulative impacts on the road network would be severe.

55. More particularly though it was said that joining the A63 from Chapel Street, and especially turning right towards Selby, was difficult because of the heavy traffic. It was contended that, as a result, drivers would then use Mill Lane instead, and either go along Gateforth Lane or continue along Field Lane, with the latter lacking pavements and streetlights and so compromising the safety of pedestrians, cyclists and horse riders. However, I have no decisive evidence to demonstrate that the Chapel Street junction with the A63 was dangerous. I am also not persuaded that any displaced flows onto Mill Lane, Gateforth Lane, Field Lane or the other roads on this side of the A63 would be so great as to be harmful. I note that, although popular with walkers going to Hambleton Hough and maybe children and parents going to school, Mill Lane has a pavement. Whilst this may be narrowed by the hedge, that is a matter of maintenance and does not offer me a basis to find this pavement is unsafe. Moreover, I have no reason to consider Field Lane and the lanes beyond are used to a significant extent by pedestrians, cyclists or horse riders, or that this scheme would have a material effect on traffic passing along them. In any event those roads are typical of the countryside, and, irrespective of the proposal, all the various users have to take into account the presence of each other.

56. Accordingly I conclude the development would not adversely affect highway safety, and so would not conflict with Local Plan Policies T1 and T2, and the Framework, which all seek to protect highway safety and avoid severe cumulative impacts on the road network.

Affordable housing

57. Policy SP9 in the Core Strategy says

> *the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings. … The actual amount of affordable housing … to be provided is a matter for negotiation at the time of a planning application.*

This figure of 40% seems to have been based on an assessment that pre-dates the Core Strategy, and appears to be from around 2009.

58. However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (the Aspinall Verdi report) to inform Policy HG7 in the eLP, and this says it considers a greenfield delivery of 10% affordable housing to be viable in this area of Hambleton (what it calls a 'low value' area), though elsewhere in the District, in 'high value' areas, 20% could be secured. It was said that the discrepancy between Core Strategy Policy SP9 on the one hand and the Aspinall Verdi report on the other was because the latter took into account costs specific to the eLP. However, it has not been shown these differing costs have had a material effect on the figures in this case.

59. Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report

when compared to that informing the Core Strategy, I consider this report constitutes a material consideration to which I should attach significant weight in my assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks *'up to a maximum'* of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

60. The appellants have submitted a viability appraisal and, based on that and with roughly an 18% profit, they say a delivery of 10% affordable housing is viable. This appraisal was tested on behalf of the Council, and, while that testing agreed that 40% was unviable, it deemed 30% delivery was possible. At the Hearing it was confirmed that the reason for the discrepancies lay mainly in the assumed Gross Development Value (the GDV) and, to a lesser degree, in the stated abnormal costs[1].

61. As a starting point, such appraisals and testings, although professionally undertaken, nonetheless involve subjective judgements being made. They are clearly not an exact science, and merely because 2 professionals come to different views, it does not follow that either is necessarily wrong. Moreover, I am aware that the figure of 10% proposed by the appellants is in line with the findings of the relatively recent Aspinall Verdi report. Indeed, in the summaries in that report I saw no encouragement to use 10% as the point where negotiations for a higher figure begin, and indeed such an approach would remove any certainty or confidence from the process.

62. The Council also pointed out that, although the Aspinall Verdi report places the site in a 'low value' area, it was close to a 'high value' one, thereby implying regard should somehow be given to its proximity to the latter. Again though I saw nothing in the parts of that report before me to indicate that such a fluid approach should be applied near to the borders of these different areas. In any event, the 30% figure offered on behalf of the Council is appreciably in excess of what the Aspinall Verdi report advises for even the 'high value' areas.

63. Turning to the GDV, the appellants arrived at their figure by looking at sales prices of 2 or 3 years ago from a similar new estate in Hambleton, and then used recognised indexing to make them comparable to today's prices. The Council's testing, in contrast, has used up-to-date sales prices, albeit from other towns and villages in the area. This was partly because the Hambleton prices were not as recent, but also because it was said the gardens on the new estate in the village were smaller than now proposed, and the open space was not as accessible, and these factors would affect the relative house prices.

64. I am aware though that the other settlements used by the Council will inevitably have different 'push' and 'pull' factors for potential purchasers when compared to Hambleton. For example, they might be under the influences of other larger settlements, have better or worse access to the motorway network, offer a greater or smaller number of services, or have a housing stock of a different mix, with more or less newer housing. All these things

[1] The Council also said the appellants' assumption of 20% profit was too high. This was the assumption within the appellants' appraisal, but with that the appraisal showed the scheme not to be viable at 10% delivery. At the Hearing the appellants confirmed that reducing the profit to around 18% would mean viability could be achieved.

could influence the prices people were willing to pay for properties. Furthermore, although I have only illustrative details of the layout for the development before me, and little knowledge of the garden areas and open space provision for the new estate in the village, from what I could see I do not anticipate any material differences in these regards between the 2. To my mind I am therefore persuaded that, on balance, the appellant's preference for relying on Hambleton, albeit with necessary adjustments to price, is a more favourable one in this instance.

65. With regard to the abnormal expenses, although the site is broadly flat I noted the difference in land levels between the 2 fields that would need appropriate earth movements, and I also accept the appellants' comments concerning the need to dispose of the soil.

66. Overall, whilst I have noted the assumptions and approaches made and taken on behalf of the Council in testing the appellants' appraisal, they are not sufficient to show that, having regard to abnormal costs, economic viability and other requirements, I should not accept the appellants' assertion that only 10% affordable housing delivery on this site is justified.

67. The commitment to deliver this amount of affordable housing was included in the S106 Agreement. Given the policy context and my reasoning above, I consider this satisfies the requirements of the Regulations.

68. The Council raised the possibility of revisiting the affordable housing delivery levels as part of the reserved matters, when precise housing styles and sizes were known. Such an approach though means there was no need to have undertaken such work at this stage. Moreover, to my mind the delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward. As such, revisiting this issue is not something I have pursued.

69. Accordingly, I conclude that the delivery of 10% affordable housing has been supported having regard to abnormal costs, economic viability and other requirements, and so is in accordance with Policy SP9 in the Core Strategy.

Other matters

70. As well as the matters discussed above, in the S106 Agreement it is proposed to make education contributions to allow the village school to accommodate the scheme's children. Despite comments to the contrary from local residents, I have no firm reason to find this could not be achieved. Further education contributions are also provided to deliver facilities at secondary schools serving the development and also towards the Special Schools and early years provision. Moneys are to be given too for capital improvements at the local surgeries as well as to the Council to monitor the Travel Plans and First Homes provision, and to contribute to waste and recycling. Moreover, the S106 Agreement secures the open space and the delivery of self/custom-build housing.

71. Given the policy context and the evidence before me, I consider these comply with the Regulations.

Other material considerations and planning balance

72. I have therefore found harm would be caused by the scheme being outside the defined Development Limits, by its effect on the character and appearance of the area, as well as, possibly, by the loss of best and most versatile farmland. Each of these gives rise to development plan conflict. As stated above though, the weight afforded to the policy conflict concerning the scheme's effect on the character and appearance of the area is limited, as being substantially surrounded on 3 sides any sense of encroachment into the wider countryside would be restricted. In considering the policy conflict resulting from the possible loss of best and most versatile land, I am aware it concerns a relatively small area and so any adverse effects in this regard would not be great. Despite these comments though, I nonetheless accept a policy conflict exists for each of these 3 issues.

73. However, section 38(6) of the *Planning and Compulsory Purchase Act 2004* refers to a balance, saying development should be in accordance with the development plan unless material considerations indicate otherwise (my emphasis). Therefore, whilst the primacy of the development plan remains and its status is unaffected, clearly there is the possibility of instances arising where a scheme is allowed despite development plan conflict. To assess that requires a judgement by the decision-maker based on the relative weights they afford to material considerations.

74. The appellants have offered a number of material considerations that they consider weigh in favour of their scheme. First and foremost is the Framework's emphasis on significantly boosting the supply of houses, which is given without reference to the level of housing provision that a District may, in fact, be able to offer. Clearly this case would deliver an appreciable number of additional homes and so would positively assist in that regard.

75. Furthermore, reference was drawn to paragraph 11d) of the Framework. In relation to this scheme, this states that where the policies which are most important for determining the proposal are out-of-date (including situations where the local planning authority cannot demonstrate a necessary housing land supply) permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (paragraph 11d)(ii)).

76. Turning first to the most important policies, the Council accepted that Core Strategy Policy SP5 was out-of-date as the site allocations document on which it so heavily relied had never materialised, and this is a view with which I agree. Furthermore, the weight I afford to a conflict with Core Strategy Policy SP2A(c) is diminished as it does not include the more nuanced approach to the consideration of development that is found in the Framework.

77. Moving on to the housing land supply position, when the submissions were made, and indeed when the Hearing was held, the version of the Framework in place then said, because of the stage the eLP had reached, the Council needed to demonstrate it had a 4-year housing land supply. This the Council considered it could achieve, as it contended it had a housing land supply of some 4.9 years using the methodology in place at the time. Consequently, Framework paragraph 11d)(ii) was not then engaged. However, the 2024 version of the Framework rescinded the circumstance where only a 4-year supply was required, and so a 5-year housing land supply is currently needed.

Moreover, when assessed against the revised approach now found in Government policy and guidance, the Council accepts it has a shortfall in deliverable housing sites of some 2.4 years (with a supply of about 2.6 years). I consider this shortfall to be appreciable. As a result, Framework paragraph 11d)(ii) is engaged.

78. In the light of this shortfall the Council acknowledges that there is an immediate need for additional general market housing and its delivery is of significant benefit in the planning balance. This is a view I share. To my mind the provision of up to 156 houses is a significant benefit in the face of this shortfall, and is something to which great weight should be attached.

79. Further benefits of the scheme are the delivery of affordable and self-build housing. Once more, the Council accepts an immediate need for additional affordable housing, and its delivery is a significant benefit in the planning balance. I concur and afford significant weight to it and to the delivery of self-build housing. The contribution to public transport will benefit the wider community and so again is a matter to which significant weight is given. There will also no doubt be economic benefits both during the construction phase and once the houses are occupied, and these are afforded moderate weight.

80. I therefore find that, on balance, the adverse impacts of the scheme identified above would not significantly and demonstrably outweigh the benefits that arise from the delivery of additional housing in the face of an appreciable shortfall and from the other material considerations listed. As such, whilst I acknowledge development plan conflict, material considerations indicate the decision should be otherwise than in accordance with the development plan.

Conditions

81. For the avoidance of doubt, conditions should be imposed concerning the commencement of the permission and the submission of Reserved Matters. For this reason the scheme should be in accordance with the access details shown on the submitted drawings, and also reflect the parameters plan.

82. In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment, the working method, including a noise assessment and regard to vibration, needs to be agreed before works commence. Given such assessments, it is unnecessary to stipulate noise levels at neighbouring properties at this stage. Phasing plans (if necessary) should also be agreed.

83. Having regard to highway safety, the new access needs to be formed, with sight splays, before other works are undertaken and the old access stopped up soon after. Details should also be agreed of the proposed emergency and pedestrian accesses to Mill Lane, with details of how the use of the former would be restricted to emergencies only. Then, apart from that Mill Lane access and any access approved for construction, access should be solely from Chapel Street. Internal circulation roads and paths should also be provided to serve the new houses.

84. Mindful of the character and appearance of the area the walling along Chapel Street should be rebuilt, and remediation works for the range of buildings to

be retained should be approved so as to ensure their survival. Housing should also be set back a minimum of 20m from Mill Lane to maintain a soft frontage.

85. The design, delivery and management of foul and surface water drainage and also the SuDS scheme should be secured. In the case of the SuDS scheme, it is also necessary to secure a maximum discharge rate. However, whilst these matters are tackled under suggested conditions 19-24 and suggested condition 26, I consider they can be simplified. Finally, housing to wheelchair user standard should be provided and an assessment of potential contamination should be made. If unexpected contamination comes to light during construction, that can be addressed under other legislation.

86. Turning to the other suggested conditions, the housing mix would be apparent at Reserved Matters stage, and so does not need separate controls. Water draining onto the highway can be addressed when considering the road construction more generally. I also see no reason why all the dwellings hereby approved need be safeguarded from existing sources of environmental noise beyond the levels of protection delivered by other legislation, while the need for health impact screening has not been demonstrated. Finally, once remediation works to the range of existing farm buildings have been secured, their future use is a matter that can be addressed at a later date.

87. Conditions were also suggested concerning tree protection, design, parking, internal site circulation, the removal of 'permitted development' rights, levels, foundations, materials, landscaping, ecology and public open space delivery. Whilst these may well need to be controlled by condition, if that is to occur I consider it should take place under the Reserved Matters.

Conclusion

88. Accordingly, for the reasons given above I conclude the appeal should be allowed.

JP Sargent

INSPECTOR

Conditions Schedule

1) Details of the appearance, landscaping, layout, and scale (the Reserved Matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the Reserved Matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the Reserved Matters to be approved.

4) Unless otherwise amended under the conditions below, the development shall be in accordance with Drawings 31022 100-P-001A and 31022 100-P-002A, and shall reflect the form of development shown on Parameters Plan Rev A (dated July 2024).

5) No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:

   a) The points of access to be used.

   b) The area for loading/unloading plant and materials.

   c) The area for storing plant and materials.

   d) Any security hoarding around or within the site.

   e) Wheel washing facilities.

   f) Measures for controlling the emissions of dust.

   g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.

   h) The positioning of any gates to the site.

   i) External lighting.

   j) The hours of working.

   The development shall then be implemented in accordance with the approved details and timetable.

6) If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.

7) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority to demonstrate that 3% of dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. The development shall then be implemented in accordance with those approved details.

8) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for

their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

9) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of 2 access points (one emergency vehicular access, and one pedestrian access) between the site and Mill Lane. In the case of the emergency vehicular access, this shall include details and measures to restrict its use to emergencies only, along with a timetable for the implementation of those details and measures and a scheme for their intended management. The details and measures relating to the emergency vehicular access shall then be installed in accordance with the approved timetable and the emergency vehicular access shall thereafter be retained and managed in accordance with the approved management scheme.

10) Before the construction of any other works on site subject of this permission, the access off Chapel Street shown on the approved drawings shall be formed to a standard that has first been submitted to and approved in writing by the local planning authority. With the exception of any construction access identified in Condition 5 and the use of the emergency vehicular access referred to in Condition 9 for emergencies, sole vehicular access to and from the site shall thereafter be through this access.

11) Notwithstanding the specific details shown on the approved drawings, prior to the commencement of development details of the footway widening works, the manner in which the stone wall along Chapel Street is to be relocated using existing materials, and the intended method of closing the existing access to the site, shall be submitted to and approved in writing by the local planning authority. The relocation of the stonewall using existing materials, the footway widening works and the closing of the existing access, shall be completed in accordance with the approved details within 3 months of the installation of the new access under the terms of Condition 10 above.

12) Prior to the first use of the access to the site off Chapel Street, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.

13) No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.

14) With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

15) With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development shall be submitted to the

local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

16) With or before the submission of Reserved Matters, details of the SuDS scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Among other things, these details shall show how the means of discharging to the public sewer shall be at a rate not exceeding 4.75 litres per second. Once approved in writing, the SuDS scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

17) With or before the submission of Reserved Matters a condition survey of the buildings on-site to be retained, along with any necessary remediation works and a timetable for undertaking those works, shall be submitted to the local planning authority. Once approved in writing, the approved necessary remediation works shall thereafter be undertaken in accordance with the approved timetable.

18) With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.

19) No part of the main building of any dwelling or flat hereby approved (but for the avoidance of doubt not including any detached outbuilding) shall extend to within 20m of the carriageway to Mill Lane.

APPEARANCES

FOR THE APPELLANTS:

M Carter	Barrister
P Irwin	Highways consultant
M Johnson	Planning agent
B Richmond	Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

V Day	Senior Highways Engineer
M Evans	Principal Planning Officer
G Sharpe	Senior Solicitor
G Tyreman	Surveyor
R Welsh	Principal Policy Officer

INTERESTED PARTIES:

M Ferris	Chair, Hambleton Parish Council
J Janik	Local resident
K Murray	Local resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

FOR THE APPELLANTS

APP1: 15 Viewpoint photographs

APP2: Drawing 100-P-001 A

APP3: Drawing 100-P-002 A

APP4: Comments on Council's suggested conditions

APP5: Email to the Council suggesting a condition concerning access (dated 29 November 2024)

APP6: Signed section 106 Agreement (dated 2 December 2024)

APP7: Comments on Inspector's suggested conditions (dated 11 December 2024)

APP8: Email to the Planning Inspectorate, with attachments, concerning the effects of the new Framework on the case (dated 10 January 2025)

APP9: Email to the Planning Inspectorate responding to Documents LPA5 & LPA6, along with a Statement of Common Ground concerning appeal APP/U2750/W/24/3347833 (dated 24 January 2025)

FOR THE LOCAL PLANNING AUTHORITY:

LPA1: Local Plan Policy T7

LPA2: Letter from arriva date 7 May 2024

LPA3: Email accepting appellants' suggested condition of 29 November (dated 2 December 2024)

LPA4: Comments on Inspector's suggested conditions (dated 11 December 2024)

LPA5: Email to the Planning Inspectorate, with an attachment, concerning the effects of the new Framework on the case (dated 10 January 2025).

LPA6: Email to the Planning Inspectorate concerning the housing supply for the former Selby area (dated 10 January 2025)

LPA7: Email to the Planning Inspectorate confirming the status of the eLP (dated 21 January 2025)

LPA8: Email to the Planning Inspectorate responding to Document APP9 (dated 24 January 2025)

FOR LOCAL RESIDENTS:

LR1: Suggested matters to view on site visit from J Janik

Planning Inspectorate

Appeal Decision

Hearing held on 22 January 2025

Site visit made on 22 January 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/U2750/W/24/3347833
Land east of Broadacres, Mill Lane, Carlton DN14 9NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Hallam Land Management Ltd against North Yorkshire Council.
- The application Ref is ZG2023/0732/OUTM.
- The development proposed is up to 200 residential dwellings with access to, but not within, the site.

Decision

1. The appeal is allowed and planning permission is granted for up to 200 residential dwellings with access to, but not within, the site at land east of Broadacres, Mill Lane, Carlton, DN14 9NB in accordance with the terms of the application, Ref ZG2023/0732/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with access to be considered at this stage, and matters of appearance, landscaping, layout and scale to be reserved for consideration later. I have determined the appeal on the same basis.

3. There are two extant planning applications[1] for housing on the appeal site. These are undetermined at present.

4. For a number of reasons, including the publication of the revised National Planning Policy Framework (the 'Framework') in December 2024, officers made a recommendation to the Development Plans Committee and the Selby and Ainsty Area Committee on 17 January 2025 that work on the emerging Selby Local Plan (eLP) should cease. It is understood that this recommendation was accepted. The same recommendation will be made to the Executive Committee and then to the Full Council on the 26 February. As such, the Council consider that the eLP can carry only limited weight. However, there is no reason to consider that the evidence base supporting the eLP should be disregarded. Indeed, the report to the Selby and Ainsty Area Committee set out that the Council can continue to apply some weight to the most recent evidence base when making decision on planning applications, and that the evidence prepared for the eLP will be rolled into the preparation of the North Yorkshire Local Plan as appropriate.

[1] Refs 2022/0399/OUTM and ZG2024/0727/OUTM

Main Issue

5. Despite the appeal already having been lodged, the application subject of this appeal was initially brought to the Selby and Ainsty area planning committee with a recommendation that the committee conclude that planning permission would have been approved subject to the completion of a planning obligation. In light of new evidence on viability, that recommendation was subsequently changed, in an officer update note, such that it was recommended that the committee conclude that planning permission would have been refused because the affordable housing proposed was below that which could viably be delivered.

6. On that basis, I consider the main issue to be whether the development would make an appropriate contribution to affordable housing provision.

Reasons

7. Policy SP9 of the adopted Core Strategy (2013) states that the Council will negotiate for on-site affordable housing up to a maximum of 40% of the total number of dwellings. The policy adds that the actual amount of affordable housing will have regard to any abnormal costs, viability and other requirements. No abnormal costs have been suggested.

8. With regard to viability, the Council's Affordable Housing Supplementary Planning Document SPD (2014), which is referred to in the policy, advises that negotiations on affordable housing provision on specific sites will be informed by up to date evidence. The evidence supporting policy SP9 dates from 2009 and the officer report confirms that policy SP9 is based on supporting assessments that are over a decade old. A more recent Local Plan Viability Report by Aspinall Verdi was carried out in January 2021 and updated in 2022 and was produced to support the eLP. This concluded that for developments on greenfield sites in the low value area, such as this site, 10% of all units should be affordable. Moreover it concludes these rates are only viable when CIL is nil. It is understood that the proposed development would be liable for CIL to the tune of just over £950,000.

9. As set out above, some weight can still be applied to the evidence base supporting the eLP. In particular, it is notable that whilst the Council recognise in their report to the Selby and Ainsty Area Committee that some of the evidence base documents supporting the eLP will need updating, such as the Gypsy and Traveller Accommodation Assessment, the Strategic Flood Risk Assessment, highways modelling and evidence relating to the regeneration of Tadcaster, there is no suggestion that the Viability Report needs updating.

10. Policy HG7 of the eLP realises the evidence in the Viability Report by confirming the minimum requirement of 10% of homes to be affordable on greenfield sites in low value areas. Policy CARL-G of the eLP which relates solely to the appeal site, also stipulates this 10% minimum requirement. Even if these policies carry limited weight, the evidence behind them remains to be of significant bearing.

11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal[2] where the Inspector

[2] Ref: APPU2750/W/24/3347885

considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough[3] noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved.

12. With regard to other requirements, referred to in SP9, the Council consider that the development does not provide the required amount of open space. The adopted policy relating to open space is RT2 of the Selby Local Plan (2005), which states that for proposals of five dwellings or more, recreational open space should amount to 60 square metres per dwelling. This would equate to 1.2 hectares and it is agreed by the parties that the development would provide 1.2 hectares of public open space including play areas.

13. ELP policy IC3 sets out the type of open space that would be needed based on the anticipated population. The Council suggest that, when considered against this policy, the development would provide around only half the required open space.

14. The officer report says that it is not appropriate to use policy IC3 as the Council have no evidence of the quantity or quality of the existing open space provision in Carlton and therefore to what extent additional provision is necessary. At the hearing it was confirmed that, in particular, it is the quality of the existing open space that has not been assessed.

15. Even before the decision to cease work was reached, the Council considered it was not appropriate to use policy IC3, and based on the lack of evidence to support that policy, I have no reason to disagree. Little weight can therefore be given to the proposal's conflict with that policy. Far greater weight can be given to the development's accordance with policy RT2.

16. In summary the provision of 10% of the dwellings in the development to be affordable would be an appropriate contribution to the provision of affordable housing. A completed section 106 agreement has been submitted which includes an affordable housing scenario securing 10%. This obligation accords with the tests in Regulation 122 of the CIL Regulations and so I have taken it into account. The alternative scenario in the agreement, of 13%, is unnecessary and I have had no regard to it. The development would accord with policy SP9, as set out above, and eLP policies HG7 and CARL-G.

Other Matters

S106

17. The S106 agreement includes a contribution towards healthcare based on the anticipated population of the development, for which there is no capacity at Beech House Surgery in Carlton. The additional floorspace necessary to meet the additional population, the cost of providing that and the resultant financial contribution has been justified in a letter from the NHS Humber and North Yorkshire Integrated Care Board.

[3] Ref APPU2750/W/23/3327421

18. The education contribution is based on the expected pupil yield from the development and the capacity of existing schools. I understand that the nearest secondary school, Holy Family Catholic School, is due to close soon. However, there is considered to be sufficient capacity at the nearest secondary school, Brayton Academy, to accommodate pupils from the development as well as from, Holy Family. However, there is insufficient capacity at Carlton Primary School to accommodate the anticipated primary school age children. Likewise a development of the scale proposed would generate a need for a contribution to Special Educational Needs and Disabilities provision locally which is at Selby Special School, and to contribute to the provision of additional capacity at early years or pre-school facilities in Carlton. All the values have been calculated and justified in correspondence from the Council's Children and Young Peoples Service team.

19. It is necessary to mitigate the effect of additional traffic using the Mill Lane/High Street junction, and to that end the agreement secures funds to extend the existing yellow line painting at this junction. There is also an undertaking which secures funding to provide new signage for the public right of way which currently runs across the site, and the nearby national cycle network. Also an obligation is included to secure funds to allow the Council to monitor the Travel Plan.

20. An obligation to secure a contribution towards the provision of four waste bins per dwelling is also included, which has been justified by the Council's Waste team.

21. The agreement will also ensure that 3% of the houses are self or custom build homes, that the recreational open space within the site is provided, and that biodiversity enhancement management and monitoring plan improvements are provided.

22. All these contributions have been justified and I consider them to be reasonable in scale and kind to the development, are directly related to the development. and are necessary to make the proposal acceptable in planning terms. I consider therefore that they meet the three requirements of Regulation 122 and I have therefore taken them into account.

Habitat Regulations

23. The Humber Estuary Special Protection Area (SPA) Special Area of Conservation (SAC) and Ramsar site is around 8km east of the site. Its qualifying features include a number of bird species such as Golden Plover and Knot, and habitats such as Atlantic salt meadows.

24. The Lower Derwent Vally SPA, SAC and Ramsar site is around 9km northeast of the site. Its qualifying features include Bewick's swan, and habitats such as Alder woodland on floodplains.

25. The River Derwent SAC is located around 5km northeast of the site and the Thorne Moor SAC and Thorne & Hatfield Moors SPA are located about 8.5km to the south east. Their qualifying features are their habitats as a river with floating vegetation and as raised bogs. The shadow Habitat Regulations Screening Assessment (sHRSA) found no impact pathways between the site and these European sites.

26. With regard to the Humber Estuary and the Lower Derwent Valley European sites, the sHRSA identified that because the appeal site has been intensively farmed with mechanical equipment and the use of pesticides it provides limited potential for

foraging habitat for the cited bird species. In addition, the proximity of dwellings and the use of the track along its eastern edge for dog walking provide sources of human disturbance which the cited bird species would be sensitive to. Lastly, there are significantly more suitable habitats for the cited species nearby. These factors along with the limited recorded activity of any of the cited birds at the site mean the development and the loss of open farmland will not be likely to have significant adverse impacts on the qualifying features of these European sites. Therefore even in combination with any other plans or projects, the development would not be likely to result in a significant adverse impact. This view reflects that of the Council ecologist and Natural England.

Heritage

27. Carlton Towers is a Grade I listed building situated around 500m to the southwest of the appeal site. It is a large country house originally dating from the early 17th century set in substantial grounds. Its significance stems from its historical value as the prominent building in the village over many centuries, and its aesthetic value which includes a tall central clock tower which is visible over a wide area, including from the appeal site. Its setting is largely informed by the estate parkland in which it sits, which itself is of local interest, and which contributes positively to its significance. The wider village also makes a contribution, albeit limited, to its setting.

28. The clock tower is not readily visible from the front of the appeal site due to trees along much of the southern side of Mill Lane. However from further into the site, and from positions on Long Hedge Lane to the east and north, the tower is visible in the distance reinforcing its prominence in the landscape, with the appeal site in the foreground. The development would therefore be seen in the same views as the listed building, albeit most likely partly screened by the proposed vegetation around the boundaries of the site.

29. The houses along Mill Lane, as well as the spread of houses in Broadacres, are also visible in views towards the clock tower. As such, the relationship of houses with the heritage asset is well established. Moreover, views of the clock tower would remain to be visible above the proposed dwellings, due to their modest maximum heights which are set out on the parameters plan, and the fact that the houses would be set well back from Long Hedge Lane. Although the development would introduce a significant number of houses, it is not considered that the relationship of the listed building to its surroundings would be materially altered and so there would be no harmful effect on the setting of the listed building. Consequently there would be no adverse effect on the significance of the listed building.

30. Similarly, the significance of the estate parkland, as a non-designated heritage asset, is primarily its role as the grounds for Carlton Towers. The development would have no impact on the significance of this asset. The Council's opinion on the effect on heritage assets is consistent with my view.

31. There are other listed buildings elsewhere in the village, but the Council do not consider the site is within the setting of these assets and, given their distance from the site and the intervening development, I have no reason to consider otherwise.

Local concerns

32. I have given careful consideration to the concerns of local residents. Though the development would result in additional traffic using the Mill Lane/High Street junction, with the Transport Assessment (TA) anticipating around 100 extra vehicles in the AM and PM peak hours, it is considered that there will be no unacceptable impact on the operation of this junction with only minimal queuing and delay likely. It is also anticipated that very little traffic would choose to take the more indirect route to the A1041 via Townend Avenue. It is noted that the surveys to underpin the TA were conducted during the Covid pandemic. However this was explicitly compensated for in the assessment. Other nearby developments and a general increase in traffic to 2029 was also taken into account to ensure robustness. Improvements would also be made to the pedestrian environment along Mill Lane as well as to the High Street/Mill Lane junction as set out above. Construction traffic, and noise, would be for a limited period and the timing of this traffic could be controlled by a Construction Environmental Management Plan. The layout of parking within the site would be dealt with as a reserved matter. The lack of objection from the Local Highway Authority supports my view.

33. Details of the scale and appearance of the houses and the layout of the site, including parking, are not before me at this outline stage. Therefore matters of privacy, outlook or light at the nearest existing properties can only be assessed at the reserved matters stage. Similarly landscaping is a reserved matter.

34. The development would represent a significant enlargement of Carlton. However I recognise that the site has been allocated for 150 homes in the eLP, and although work has ceased on this, there is no evidence before me to consider that the site would no longer be considered as a possible allocation. Indeed, it is common ground that following the publication of the revised Framework, the Council's housing need has increased and there is therefore even greater pressure to provide homes. As such, although the site is outside the development limit boundary for Carlton, which results in conflict with Policy SP2 of the Core Strategy, its allocation in the eLP, in policies HG1 and CARL-G can be given weight. Indeed it was not suggested by the Council that the principle of the proposal can no longer be supported.

35. Drainage details for foul and surface water would be controlled by a planning condition which requires the provision of schemes to be approved by the Council.

36. As well as providing financial contributions towards the local primary school, early years facilities and medical facilities in Carlton, there would be an economic benefit to local shops and services.

37. Details of ecological enhancements would be provided at the reserved matters stage and a substantial part of the site, closest to the neighbouring wooded area to the south east, would be set aside for biodiversity.

38. The site is classified as Grade 3a Best and Most Versatile agricultural land. Core Strategy policy SP18 says development will be steered to areas of least agricultural quality. The officer report states that in the wider area, the land to the east of the High Street, including the appeal site, is of lower grade than that to the west. I have no reason to consider otherwise, so although the development would result in the loss of agriculturally productive land, it would not conflict with the policy.

Conditions

39. A list of conditions was provided, with comments by both parties. I have considered their comments as well as the advice in the Framework and the Planning Practice Guidance (PPG) in the final wording of the conditions.

40. Conditions relating to the commencement of the development, the submission of reserved matters and identifying the approved plans are necessary in the interests of certainty.

41. I have imposed a condition which requires 6% of the houses to meet Building Regulation M4(3) wheelchair user standard, and for all homes to meet the Nationally Described Space Standards. Although there is no adopted policy explicitly requiring this, it does reflect the advice in the 2020 Housing and Economic Development Needs Assessment. I consider it necessary in the interests of promoting equality and enabling balanced communities.

42. The three conditions relating to works to the highway, creation of visibility splays and the construction of the access are imposed in the interests of highway safety. I have altered the condition relating to the visibility splays to simplify it and so that it accurately reflects the plans, and I have altered the condition relating to works to the highway so that it is clear that the provision of the footway should not compromise the width of the carriageway. The condition relating to the Travel Plan is necessary to promote sustainable travel.

43. I have amended the condition relating to foul drainage to omit the requirement to demonstrate approval from the sewerage undertaker. This is because it is unlikely that the details required by the condition could be provided without the sewerage undertakers approval. In any case, the Council could consult that body if that approval was not explicit in the details provided. This condition, and that relating to surface water, are imposed to ensure the development is served by satisfactory drainage.

44. I have removed some of the items in the condition relating to a Construction Environmental Management Plan. This is because they are either covered by other items in the condition, other legislation or are unnecessary. The altered condition is necessary to protect the living conditions of nearby occupiers. Likewise the conditions relating to any soil contamination and foundation piling are imposed for the same reason. I have altered the wording of the condition relating to remediation so that it relates only to the part of the site in which remediation is needed as to delay development on other parts of the site would be unreasonable.

45. Two conditions relating to maintenance of the water mains that pass through the site and the electricity cables, are imposed in order to maintain existing infrastructure. I have slightly reworded the condition relating to the electricity cables so that such infrastructure would only be relocated underground if necessary.

46. In the interests of ensuring the site and its surroundings are protected from flooding, a condition is attached to ensure any flood water which exceeds the capability of the proposed drainage features is suitably managed.

47. As agreed by the parties, I have removed the requirement for the finished floor levels of the houses to be 300mm above the 1 in 100 year plus climate change flood level. The remainder of the condition is necessary in the interest of

maintaining the character and appearance of the area. For the same reason I have imposed a condition relating to the protection of existing trees.

48. The biodiversity net gain condition has been amended as agreed by the parties to simply require the submission of an updated biodiversity impact assessment with the reserved matters. Also the condition relating to bat sensitive lighting has been amended to refer solely to the lighting within the appellant's control. The Council confirmed street lighting would be bat sensitive anyway. These conditions are necessary in the interests of promoting biodiversity.

49. A condition is attached to secure the necessary open space, however I have removed the explicit reference for the local area for play and the locally equipped area for play to be designed to the standards set out in guidance as it would be within the Council's control to refuse to discharge these details if they are sub-standard.

50. The condition requiring a health impact assessment screening checklist has not been included as the Council agreed it was unnecessary.

Conclusion

51. The proposal would accord with the development plan taken as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. Therefore the appeal is allowed.

A Owen

INSPECTOR

Schedule of Conditions

1) Details of the access (within the site), appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

3) The development hereby permitted shall be carried out in accordance with drawing nos 2337.01 and 17105/GA/02 Rev F.

4) The reserved matters application(s) shall conform with the approved parameter plan number 2337:04 Rev D.

5) The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the local planning authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall proceed in accordance with the approved details.

6) No development (excluding demolition, archaeological investigation, service diversions and any land remediation/ground improvement works) shall take place until detailed engineering drawings of the following have been submitted to and approved in writing by the local planning authority: a) All internal roads of the development; b) All works on drawing number 17105/GA/02 Rev F; c) Notes B to F inclusive on Detailed masterplan 2337.02 Rev D; d) The widening, to 2m where possible without encroaching onto the carriageway, of the footway on the northern side of Mill Lane from the application site frontage to the junction of Mill Lane with High Street; e) The emergency access to Broadacres Garth shown on Detailed Masterplan 2337.02 Rev D. The submission shall include an independent Stage 2 Road Safety Audit (commissioned in accordance with North Yorkshire Council protocol) carried out in accordance with 56 OFFICIAL GG119 - Road Safety Audits or any superseding regulations. The development shall proceed in accordance with the approved details. The works secured by criteria b to e inclusive shall be completed prior to the first occupation of any dwelling on the development.

7) The vehicle visibility splays of 2.4m x 47m to the east and 2.4m x 54m to the west, as shown on drawing number 17105/GA/02 Rev F, shall be free of any obstruction exceeding 0.6m in height. Pedestrian visibility splays of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of Mill Lane shall be free of any obstruction exceeding 0.6m in

height. All splays shall be provided prior to the first occupation of any dwelling on the development and retained as such thereafter.

8) No dwelling shall be occupied until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved and kerbed and connected to the existing highway network with any street lighting installed and in operation. The penultimate dwelling shall not be occupied until the access routes serving the development have been completed to wearing course level.

9) The Travel Plan October 2023 (Rev 2) shall be implemented in accordance with the details it contains.

10) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of surface water drainage for the whole site, including ground water pollution prevention measures, adoption/maintenance details and a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall comprise sustainable urban drainage systems, unless comprehensive justification for other methods is agreed. Thereafter the drainage scheme shall be implemented and maintained in accordance with the approved scheme.

11) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of foul drainage for the whole site, including details of the means and extent of impermeable lining of foul sewers within ground water source protection zones, a timetable for its implementation and adoption/maintenance details has been submitted to and approved in writing by the local planning authority. Thereafter the foul drainage scheme shall be implemented and maintained in accordance with the approved scheme. There shall be no temporary storage of foul sewage on the site.

12) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction phase for the development. The plan shall include:

i) details of any temporary construction access(es) to the site including measures for removal following completion of construction works;

ii) details of onsite wheel and chassis underside washing facilities and methods of cleaning the highway;

iii) the parking of contractors', site operatives and visitor's vehicles;

iv) areas for storage of plant and materials used in constructing the development clear of the highway;

v) measures to manage the delivery of materials and plant to the site including routing and timing of deliveries, loading and unloading areas;

vi) pre-development condition survey of the parts of Mill Lane that will be used by vehicles associated by the development;

vii) details of development and delivery hours;

viii) erection of temporary security fencing;

ix) measures to control and monitor dust, dirt, noise and vibration emissions arising from the development;

x) removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;

xi) location and type of temporary lighting and methods to prevent light nuisance and harm to bats;

xii) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue at the site;

xiii) details of interception measures to avoid pollution of ground water source protection zones;

xiv) Details of the means of protecting trees and hedgerows during construction of the development, to be installed prior to the commencement of other elements of the development and to be retained until the development adjacent to the tree or hedgerow is completed.

13) No foundation piling shall take place until a schedule of works to identify 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. Development shall be carried out in accordance with the approved details.

14) No development shall take place, until a site investigation and risk assessment has been undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors, and it shall be submitted to and approved in writing by the local planning authority.

15) Where remediation works are shown to be necessary, no development shall take place until a detailed remediation strategy has been submitted to and approved in writing by the local planning authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works.

16) Prior to the occupation of the relevant phase of the development, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the local planning authority. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act.

17) In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the local planning authority. Following completion of measures identified in

the approved remediation strategy, a verification report must be submitted to and approved in writing by the local planning authority.

18) No building shall be located over or within 6 metres of the two water mains that pass through the site. Any tree, hedgerow or shrub planting within this protected area shall first be agreed in writing by the local planning authority. If the required stand-off distance is to be achieved via diversion or closure of the water main(s), the developer shall submit evidence to the local planning authority that the diversion or closure has been agreed with the relevant statutory undertaker.

19) The reserved matters application(s) shall include proposals to relocate, divert or place underground where necessary the electricity cables and related infrastructure that cross the site along the Mill Lane frontage and a timetable for doing so, for approval in writing by the local planning authority. This infrastructure shall be moved in accordance with the approved details.

20) The reserved matters application(s) shall include a flood water exceedance flow plan to be submitted to and approved in writing by the local planning authority. This shall include details of how the site design will ensure that when SuDS and or drainage features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30-year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100-year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site. Development shall be carried out in accordance with the approved details.

21) The reserved matters application(s) shall include details of finished floor levels of the dwellings, and existing and proposed surrounding ground levels, to be approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

22) No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with the approved landscaping plans submitted at reserved matters stage, without the written consent of the local planning authority. Any existing tree, shrub or hedge or any tree, shrub or hedge planted as part of the landscaping scheme or any replacement that dies or is removed, uprooted or destroyed or becomes seriously damaged or defective within a period of 5 years of completion of the landscaping scheme, must be replaced by another of the same species in the next available planting season.

23) The reserved matters application(s) shall include an up-to-date Biodiversity Impact Assessment which shall demonstrate a Biodiversity Net Gain of 10% and a methodology to ensure the submission of regular monitoring reports with remedial actions to achieve the objectives for 30 years from the date of completion of the habitat creation or enhancement. Biodiversity Net Gain shall be carried out in accordance with the approved details. The developer shall notify the local planning authority in writing within 14 days of the completion of the habitat creation and or enhancements that constitute the approved Biodiversity Net Gain scheme.

24) The reserved matters application(s) shall include a scheme of ecological enhancements for bats, birds and hedgehogs based on the measures outlined in the submitted Ecological Impact Assessment Report; hedgehog gaps in fences; a bat sensitive lighting scheme (not including street lighting) with particular avoidance of hedgerows and new/enhanced habitat; and an implementation schedule for approval in writing by the local planning authority. Development shall proceed in accordance with the approved details and the implementation schedule it contains.

25) The reserved matters application(s) shall include details of the public open spaces, a Local Area for Play (LAP) and a Locally Equipped Area for Play (LEAP) which are to be located within the public open spaces shown on the approved parameter plan. Development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT

Jonathan Dunbavin	ID Planning Consultants
Mark Johnson	Johnson Mowat
Martin Carter	Barrister

FOR THE LOCAL PLANNING AUTHORITY

Martin Evans	Principal Planning Officer
Richard Welch	Planning Policy Officer
Diane Holgate	Principal Planning Officer
Glenn Sharpe	Council Solicitor
Jake Gamble-Schofield	Align Property Partners

DOCUMENTS PROVIDED AT THE HEARING

List of sold prices of houses in The Hawthornes, Carlton

Email exchange between Align Property Partners and the appellant regarding garage construction costs.

APPENDIX E

Notes:
xx

N

Scaled @ 1:1250

0 25m 50m 100m

REV:	DESCRIPTION:	BY:	DATE:
B	Area around existing pumping station amended to suit clients comments	SSH	Dec 21
A	North west corner adjacent to Leeds Road amended to suit clients comments	SSH	Dec 21

STEN ARCHITECTURE

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Twitter: @STEN_arch
Facebook: stenarchitectureltd
Linkedin: Sten Architecture

CLIENT: VISTRY GROUP

SITE: Land South of Leeds Road
Thorpe Willoughby

TITLE: Location Plan

SCALE AT A2:	DATE:	DRAWN:	CHECKED:
1:1250	OCT 22	SSH	

PROJECT NO:	DRAWING NO:	REVISION:
2251	2251.02.LP	B

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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

30TH APRIL 2025

ZG2023/1017/OUTM APPLICATION FOR OUTLINE PLANNING PERMISSION INCLUDING ACCESS, WITH ALL OTHER MATTERS RESERVED, FOR UP TO 110 RESIDENTIAL DWELLINGS AT LAND AT FIELD LANE, THORPE WILLOUGHBY, SELBY, NORTH YORKSHIRE ON BEHALF OF SHERWOOD BROTHERS LTD

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine an application for outline planning permission including access, with all other matters reserved, for up to 110 residential dwellings at land at Field Lane, Thorpe Willoughby, Selby, North Yorkshire.

1.2 This application is reported to Committee because the Head of Development Management considers this application to raise significant planning issues such that it is in the public interest for the application to be considered by Committee.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to prior completion of a section 106 agreement to secure the matters detailed below and the conditions detailed below.

2.1. This is an application for outline planning permission for up to 110 dwellings with access to the site to be determined. Two vehicular accesses and one pedestrian access are proposed to Field Lane and one pedestrian access is proposed to the public right of way to the east. The site layout plan is illustrative of how the site could be developed. The site is within the countryside to the south of the development limit of a Designated Service Village, Thorpe Willoughby. The site is relatively flat and undeveloped with a frontage hedgerow and hedgerows dividing the fields within the site.

2.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight

afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

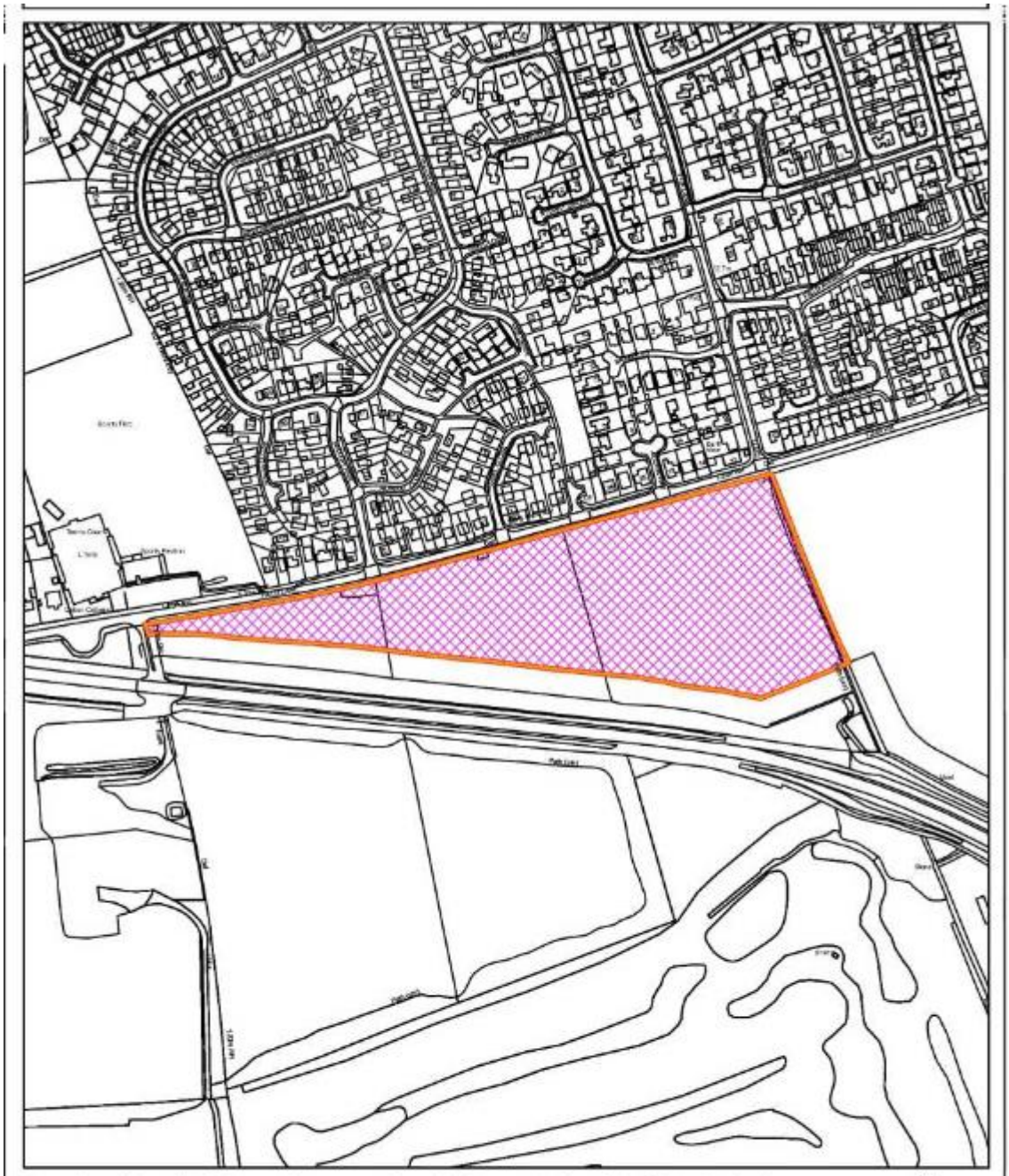
2.3. However, the Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.4. Adverse impacts include limited visual harm from outside of the site and limited harm to the character and setting of the village; and conflict with the development plan.

2.5. Neutral matters include the lack of conflict with mineral policies; the lack of conflict with policies seeking to protect best and most versatile agricultural land and steering development to areas of least agricultural quality; the flood risk sequential test is passed, the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access, safety or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; and education, healthcare and bin contributions are secured to ensure no detriment is caused.

2.6. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a significant contribution to needed market and affordable housing (great weight it given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems and those that want to self or custom build their own home; the scheme will provide contributions to enhance bus services and cycle facilities which benefits existing and future residents; 10% biodiversity net gain and ecological enhancements are secured; provision of open space and play areas that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

2.7. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior agreement of a s106 agreement.



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do not measure from plan

3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:- ZG2023/1017/OUTM | Application for outline planning permission including access, with all other matters reserved, for up to 110 residential dwellings | Land At Field Lane Thorpe Willoughby North Yorkshire

3.2. During the course of the application amended highway and indicative layout information was submitted.

3.3. The proposal is not of a scale that requires screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

3.4. Outline Planning Application including access, with all other matters reserved for erection of up to 110 residential dwellings, reference 2022/1483/OUTM, on the same site was refused on 15/5/2023 for the following reasons:

"01. The proposal constitutes a major residential development in the countryside which fails to satisfy any of the permissible exceptions for development in such locations. Furthermore, the release of this major residential development site on an individual basis would not represent limited further growth anticipated by the Core Strategy and taken cumulatively with other residential developments in Thorpe Willoughby would represent a disproportionate share of the overall growth envisaged in the designated service villages which would cause significant harm to the spatial strategy that underpins the Core Strategy. The proposal is contrary to Policies SP2 and SP5 of the Core Strategy.

02. The conflict with the spatial development strategy means the loss of best and most versatile agricultural land would be unnecessary. Such loss would result in minor harm to the agricultural economy in the area as well as food self sufficiency. The loss of agricultural land is contrary to Core Strategy Policy SP18 and NPPF paragraph 174 b).

03. The proposal does not include a minerals assessment and does not demonstrate mineral impacts are acceptable, contrary to Policies S01 and S02 of the Minerals and Waste Joint Plan.

04. The proposal does not provide appropriate highway junction capacity testing nor consideration of committed developments and seeks to encourage pedestrians to cross the A63 without consideration of safety implications. The proposal does not demonstrate the highway capacity and safety implications are acceptable contrary to Selby District Local Plan Policies ENV1 and Policy T1, and NPPF paragraph 111.

05. The proposal does not demonstrate that the deterioration of irreplaceable habitat (ancient woodland) would be avoided and there are no wholly exceptional reasons to support the proposal and a suitable compensation strategy does not exist. The proposal is contrary to Policy ENV1 of the Selby District Local Plan, Policies SP2 and SP18 of the Core Strategy, NPPF paragraph 180c and the standing advice of Natural England."

3.5. Outline application for residential development including access (all other matters reserved), reference 2016/1345/OUTM, on the same site was refused on 14/7/2017 for the following reasons:

"01. The site overlies the Triassic Sherwood Sandstone Aquifer from which ground water is extracted for public water supply. The site lies within the total catchment groundwater source protection zone (SPZ III) for the Public Water Supply boreholes of
the Selby Wellfield. The nearest abstractions are located within 800 metres to the north
east at Brayton North. As the aquifer is likely to be at a shallow depth below the site, the overlying drift deposits of sand and gravel are likely to provide little protection to the aquifer. If the foundations of the proposed new dwellings protrude into the Sherwood Sandstone, this could create preferential flow paths for contaminants and pollution to reach the aquifer. The development of this site therefore has the potential to result in pollution of the ground water used as a public water supply. Notwithstanding
that the Council currently does not have a 5 year supply of housing land, there are other sites available for development in Thorpe Willoughby which do not pose this risk.

02. This proposal would result in an unwarranted intrusion into open countryside outside the development limits of Thorpe Willoughby. Policy SP2 (c) of the Selby District Local Plan states that development in the countryside, outside development limits, will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposals do not meet any of these criteria being an intensive form of residential development which would be detrimental to the rural character of the area.

03. Policy SP4 of the Selby District Local Plan states - "In all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area and to comply with normal planning considerations……" In this case the proposals would not preserve or enhance the character of the local area and would adversely impact upon the setting of Brayton Barff, which is a distinct and valuable feature in the landscape, and is designated as a locally important Landscape Area (LILA), a Site of Nature Conservation Interest (SNCI) and an Ancient Woodland, and Site of Importance for Nature Conservation (SINC). Policy SP 18 of the Core Strategy also refers to the safeguarding of locally protected sites for nature conservation, including SINCS from inappropriate development. This site is in close proximity to and visible from the Barff and if developed it would have a significant adverse impact upon
the setting of this prominent and locally important landscape feature."

3.6. An appeal, reference APP/N2739/W/17/3181460, against the above refusal was dismissed on the 21st March 2018 (a copy of the appeal decision is attached at Appendix A).

3.7. The Inspector concluded that the proposal would conflict with the development plan by
virtue of the site's location in the open countryside and the serious harm to the Council's spatial strategy and its ability to deliver a plan-led approach to housing development. Despite a boost to housing supply the NPPF indicates this should be achieved through a plan-led approach where a 5-year housing land supply exists. Additional housing would provide social benefits and economic benefits arise from construction investment and occupational expenditure. However, in view of the level of new housing provision already achieved and committed in Thorpe Willoughby and the other DSVs, there is no urgent or pressing need to release a large greenfield site in this location. Potential benefits neither outweigh the harm that would be caused nor amount to material considerations that indicate a decision other than in accordance with the development plan. The appeal was dismissed.

4.0 Site and Surroundings

4.1. The application site is triangular in shape and 4.65 ha in area. It consists of relatively flat undeveloped land subdivided into three parcels by hedgerows. The western parcel is a heavily grazed paddock. The central and eastern parcels are overgrown grassland.

4.2. The northern site frontage to Field Lane benefits from an established hedgerow that is approximately 2.5m in height and broken only by two field entrances, with dwellings and Thorpe Willoughby Sports Association to the north which is a protected existing recreation open space. Beyond the southern boundary of the application site is an established landscape tree buffer to the A63 with further woodland to the south of the A63. The eastern boundary of the application site is formed by a tree lined public right of way, reference 35.30/5/1, with farmland beyond.

4.3. The Thorpe Willoughby development limit is immediately to the north of the site hence the site is within the countryside. A Locally Important Landscape Area (LILA) commences to the east of the site. The site is in flood zone 1 for sea and river flooding, western areas of the site are in low, medium and high surface water flood risk areas and eastern parts of the site are at low and medium risk of surface water flooding. The site is within a sand and gravel safeguard area and ground water source protection zone (zone 3). Parts of Brayton Barff to the east of the site are classified as ancient woodland, and a site of importance to nature conservation (SINC).

5.0 Description of Proposal

5.1. This is an application for outline planning permission, with access to the site to be determined and with all other matters reserved, for the erection of up to 110 residential dwellings of which 10% would be affordable homes. Two accesses to the site are proposed from Field Lane via priority junctions which will be 5.5 metres wide

and feature 2 metre wide footpaths to either side. Visibility Splays of 2.4 metres x 59 metres to the west and 2.4m x 57m to the east are shown at both accesses. Tactile pedestrian crossing points are proposed across each proposed access and Field Lane to the east of each access. A tactile pedestrian crossing is proposed on Fox Lane. Raised vehicular tables are proposed at each junction with Field Lane. A 2m wide footway to the site frontage is proposed. Pedestrian access is proposed from the public right of way to the east of the site. Pedestrian access is also proposed at the western edge of the site on to Field Lane. The access proposals are shown on the Indicative Layout drawing number 2444 / 002 REV E.

5.2. An indicative layout (Appendix B) accompanies the application and shows how the site could be developed. Approval for layout is not sought at this time and is to be reserved for subsequent approval. However, the indicative layout intends to demonstrate the ability of the site to accommodate a residential development of up to 110 dwellings with an area of on-site open space at the western end and the associated infrastructure necessary to develop the site.

6.0 Planning Policy and Guidance

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

6.2. The Adopted Development Plan for this site is:

- Selby District Core Strategy Local Plan (adopted 22nd October 2013)
- Those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
- Minerals and Waste Joint Plan (adopted 16 February 2022)

Emerging Development Plan – Material Consideration

6.3. The Emerging Development Plan for this site is:

- Revised Publication Selby Local Plan 2024 (Reg 19)
- North Yorkshire Local Plan

On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. The responses have been considered. From 8 March to 19 April 2024 the Council held a six-week consultation on the Pre-Submission Revised Publication Selby Local Plan. The responses have been considered.

On 17th January 2025, a report was taken to the Selby and Ainsty Area Committee and Development Plans Committee recommending that work on the emerging Selby

Local Plan is ceased. A report was taken to North Yorkshire Council's Executive on 4 February and then North Yorkshire Council's Full Council on 26 February with the same recommendation which has been agreed.

Having regard to the above, there is no emerging local plan to consider, but some weight may be given to the evidence base.

No weight can be given to the North Yorkshire Local Plan at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2024
- National Planning Practice Guidance
- National Design Guide 2021
- Affordable Housing Supplementary Planning Document (AHSPD) 2014
- Developer Contributions Supplementary Planning Document (DC SPD) 2007

7.0 Consultation Responses

7.1. The following consultation responses have been received and have been summarised below.

7.2. **Thorpe Willoughby Parish Council:** 5/10/2023 Objection. "NATURE CONSERVATION The proposed site is within 500 meters of Brayton Barff, a protected ancient woodland. Building houses in the field next to this would be disastrous to wildlife, flora and fauna. This ancient woodland is beautiful and we need to protect it along with its wildlife and ecosystems. This application would lead to the deterioration of irreplaceable habitat (ancient woodland – Brayton Barff) and is contrary to Policy ENV1 of the Selby District Local Plan, Policies SP2 and SP18 of the Core Strategy, NPPF paragraph 180c and the standing advice of Natural England. Building on greenbelt land so close to an ancient woodland goes against conserving and enhancing the natural environment. By approving such an application, it would also set a precedent allowing further developments on other greenbelt land surrounding the village and woodland. LAYOUT AND DENSITY OF BUILDING One hundred and ten houses on this site will look dense and visually unattractive to look at and not in keeping with the rest of the village. HIGHWAY SAFETY & TRAFFIC With the addition of potentially two hundred more residents and vehicles from this proposed site, we are very concerned about highway safety. Access to the proposed development falls in Thorpe Willoughby via Field Lane; this will direct cars up and through the village bringing unwanted pollution, potential speeding and increased wear and tear on the roads. The volume of cars will be detrimental to the village and its current residents. Only this month, residents of Thorpe Meadow have moved in and we are already experiencing a significant amount of extra traffic along Field Lane. PREVIOUS PLANNING APPLICATIONS: This is the third application for residential dwellings on this land with the two prior applications being refused. Circumstances haven't changed and therefore this application should also be refused. OTHER FACTORS: This proposed development by postcode is within Thorpe Willoughby but by parish boundary falls within Gateforth & Hambleton Parish. This will result in any Construction Levy that is generated being paid to

Gateforth/Hambleton. The proposed development is four and two miles respectively away from these villages. They will financially benefit from this development and will see their precepts increase but it will not be their amenities that feel the stretch. Thorpe Willoughby will need improved amenities but have no additional finances to fund this. This is genuinely worrying. Thorpe Willoughby only has one primary school which can take 315 pupils, with a current capacity of 261. Hambleton Primary school can take 210 pupils, with a current capacity of 180 and Gateforth does not have a primary school. Houses on this proposed site are designed for families and the catchment area for them will be Thorpe Willoughby School which is close to capacity already."

7.3. **Hambleton Parish Council:** 24/10/2023 Objection. "A development in this specific slice of land would set a dangerous precedent encroaching on the Locally Important Landscape Area, Brayton Barff. The Hambleton Parish Council objects to the principle of building on sites like these which will destroy thriving wildlife habitats and woodland which is centuries old. The area of land also provides a green space sound proofing buffer to existing residences on the north of Field Lane. This site is not in the New Local Plan and has been refused permission various times, for good reasons, some of which are simply unable to be addressed such as Thorpe Willoughby taking a disproportionate share of the Overall Growth based on the cumulative development already taking place. The cumulative development in each DSV is a vital factor to be considered because small developments are added regularly and no additional facilities are provided for a small development, however the small developments add up to a large number of additional people needing those facilities; Healthcare is one example. All previous objections for development on this land submitted by Hambleton PC still stand, including those on traffic and sustainability. Please find the previous objections attached." "Development in Thorpe Willoughby will inevitably result in even more traffic through Hambleton, which the PC is absolutely not willing to support. Given the state of the A63 through Hambleton and Monk Fryston, the sheer amount of traffic which includes a large percentage of HGVs, further developments suggesting there are good road links from the location have to be questioned. With a pedestrian being knocked over in Monk Fryston recently and the road subsiding in Hambleton, inviting hundreds of additional vehicles onto the A63 is simply compounding the problem; this road is at capacity. The local public transport schedule is simply not effective in providing a reliable, efficient and available means of transport for commuters, residents will travel by car to commute to Leeds/York/Selby– there is no other viable option. Encouraging private car use goes against the NPPF which says a 'sustainable development' will reduce the number of car journeys. The local road that would be used for access, Fox Lane, is also unsuitable; adding further vehicle movements at peak times on this narrow road, regularly used for parking in Thorpe Willoughby, cannot be seen as safe and acceptable. Increasing traffic flow at the small crossroads in Brayton because of another new development would also be a resulting factor – have Brayton Parish Council been notified of the application? The village has some amenities for example a doctors surgery but this is a small and part time surgery. Healthcare provision is limited in the area and is already stretched in the area. There is no post office or ATM and the primary school is full, as is Hambleton Primary. The site is very close to Brayton Barff and would have a detrimental effect on the Locally Important Landscape Area, it will also set a precedent for further building on land close to the

Barff, in what was intended as a green 'buffer' between Thorpe Willoughby and the Selby By-Pass. Applications have been rejected at this site previously, for what Hambleton PC see as good reason, and still relevant."

7.4. **NYC Affordable Housing:** 9/10/2023 44 (40%) affordable housing units are proposed in accordance with current policy. The tenure of the units is intended to be 60/40 with preference to affordable rented tenure.

7.5. **NYC Archaeologist:** 3/10/2023 No objections.

7.6. **NYC Conservation Officer:** 17/11/2023 It is noted that the only heritage asset is Barff House a Grade II listed building this sits to the north of the site. Although in close proximity there is sufficient separation between the site and the heritage asset for setting not to be affected.

7.7. **NYC Ecologist:** 11/10/2023 The BNG feasibility report shows modest net gain. The on-site biodiversity impacts would be minor. Although a small amount of hedgerow removal would be necessary, the scheme includes new hedgerows and tree lines. Proposals to install integral bat and sparrow boxes on some of the new houses are welcome. The ecologist recommends a Condition to submit a Construction Environmental Management Plan (Ecology) and an Ecological Management Plan (or Landscape and Ecology Management Plan) for approval prior to commencement. A sensitive lighting scheme to reduce impacts on nocturnal wildlife using adjacent woodland should be secured. The proposal will impact Brayton Barff, a Site of Importance for Nature Conservation (SINC) and ancient woodland. Multiple nearby housing proposals lead to cumulative impact concerns. A strategic solution should be pursued.

7.8. 9/5/2024 Following the Inspectors decision at Barff Lane, Brayton it is our advice that this development proposal would not represent a conflict with para 186c of the NPPF in relation to irreplaceable habitats. However, we remain concerned about the impacts of increased recreation upon Brayton Barff ancient woodland SINC.

7.9. **NYC Environmental Health:** 6/10/2023 The preliminary noise assessment is noted and a condition is recommended to secure appropriate internal and garden noise levels. The proposal may increase vehicle movements through an Air Quality Management Area therefore a condition is recommended requiring an emissions mitigation statement including emission mitigation measures. Conditions are recommended to minimise noise, vibration, dust and dirt on residents; working hours; and piling.

7.10. **NYC Landscape Architect:** 5/2/2024 To appreciate the significance of Brayton Barf it should be viewed protruding from a flat landscape. If that apron of flat landscape is lost to development, the context and relative height of the Barff is diluted. The proposed development would significantly reduce the openness around and between the Barff and Hambleton Hough. Additional housing coupled with relatively little provision of new natural open space, is very likely to contribute to further deterioration and erosion(literally) of the quality, and value, and hence character of this ancient woodland landscape. Thus whilst the application site lies beyond the woodland of

Brayton Barff, the site's proximity and lack of mitigation is likely to be contrary to NPPF 180 c) due to the cumulative impact on the ancient woodland and some of the ancient or veteran trees within it due to the increase in recreational pressure. The site is within a candidate Locally Important Landscape Area that incorporates the two existing LILAs at Hambleton Hough and Brayton Barff, and includes the landscape between them to preserve their combined value, as recognised in the 'Selby District Local Landscape Designation Review' (December 2019). Relevant sections of this document are quoted. The proposed development would disrupt the setting of Brayton Barff and the sweep of landscape between the two hills. Brayton Barff, partnered with its setting, provides a recognisably unique context for the villages of Thorpe Willoughby and Brayton, providing the settlements with a strong sense of location, identity, and pride. The open setting provided by this segment of four arable fields bounded by Brayton Barff, Field Lane and the A63 emphasises the height and wooded nature of the Barff. The proposed development would be located adjacent to the settlement, however it would be on the opposite side of a road. Field Lane is a very defining edge, beyond which there is currently no development. Given the coherent continuity of landscape between the fields and Brayton Barff, which is also contained by the young woodland belt adjacent to the A63, the proposed development would represent a clear extension of the built form into the open countryside and would fundamentally alter the character of this part of the candidate LILA. It would also alter the setting of Brayton Barff as viewed from the historic route of Field Lane - an important view in defining the villages sense of place and relationship with its landscape context. The proposed development would cause a significant erosion of openness which is an important characteristic of the fields that form the setting of Brayton Barff. The openness and more level topography of the fields contrasts with the wooded slopes of the hill. The proposal would have a significant adverse effect on the landscape character of the site and in turn on the immediate area. The A63 does not form a defining edge to the settlement of Thorpe Willoughby. The edge of Thorpe Willoughby is currently clearly and appropriately defined by Field Lane, which due to its severed status is a relatively quiet lane, bordered by open countryside. Although the busy traffic of the A63 has a prominent acoustic presence, the context of Thorpe Willoughby is essentially rural. It would change the perceived character and context of the village and its association with Brayton Barf if this defined edge were corrupted by more housing on the opposite side of the road. The development would disrupt the simplicity of the open landscape and views from Field Lane towards Brayton Barff. The landscape of Brayton Barff is highly sensitive to change; this critically also includes its setting. In isolation of its context, the sensitivity of the landscape within the boundaries of the site is low to medium in that it is simple, low-lying arable/pasture, bordered with native hedgerows. Its value and sensitivity increases when it is read in the wider context, by way of its contribution to the setting of Brayton Barff due to its open rural character and contrasting topography. The historic field network this side of the A63 is still coherent and intact. The view to Brayton Barff across the foreground openness due to an absence of development along the entire southern length of Field Lane, is an informative and unique view. It brings the woodland and hedgerows together into an uninterrupted rural arable/wooded landscape with a direct sense of the countryside and the natural environment. Due to the height and location of the proposed development; new housing would be visible over the top of the hedge; and would occupy a substantial portion of such views from Field Lane, thereby causing

significant harm to the existing uncluttered, attractive views of Brayton Barff. The sense of foreground openness would be lost. The proposed development disrupts the existing clean relationship between the built edge of Thorpe Willoughby (defined by the alignment of Field Lane), and the open countryside, and the context of Brayton Barff, which is a very significant and orienting natural landscape feature within Selby District.

7.11. **NYC Lead Local Flood Authority:** 29/11/2023 Infiltration testing can be secured by condition. Conditions are recommended regarding a foul and surface water drainage scheme; runoff rates and storage requirements; maintenance; exceedance flow routes; floor levels; and percolation testing.

7.12. **NYC Local Highway Authority:** 5/3/2024 Further discussions are required regarding the transport assessment and the travel plan. £1350 per dwelling is requested for cycle infrastructure improvements. £1,266 per dwelling is requested towards bus service enhancements.

7.13. 21/11/2024 Further justification for bus service and cycle infrastructure enhancement contributions provided.

7.14. 5/2/2025 The access proposals are acceptable. The need for previously requested contributions is reiterated, plus £50,000 to enable mitigation of the capacity issue Barff Lane A19 cross-roads is experiencing. This contribution will allow the capacity threshold to be increased by operating with a MOVA system as opposed to the current VA system in place. Conditions are recommended regarding double yellow lines to Field Lane either side of the western access; delivery of highway infrastructure; road and footway connections for residents; off site highway works; visibility splays at Field Lane; another condition relating to delivery of off site highway works; travel plan; and construction management plan.

7.15. **NYC Minerals and Waste Team:** 5/10/2023 No objection.

7.16. **NYC Public Rights of Way:** 10/10/2023 There is a public right of way adjoining the site reference 35.30/5/1. Advice given regarding any works to or the blocking of rights of way. Additional comments provided on the same date noting indicative landscaping proposals would need to ensure no new planting within one metre of the edge of the right of way.

7.17. **NYC Strategic Planning, Children and Young People's Service:** 7/11/2023 Contributions are sought: £76,167.00 towards facilities at Thorpe Willoughby Community Primary School and or Hambleton Church of England Voluntary Controlled Primary School and or another primary school within the locality of the development. £336,092.90 towards facilities at Selby High School and or another secondary school serving the locality of the development; £74, 474.40 towards provision at the new Selby Special School or another school with SEND provision serving the locality of the development; and £93,093.00 towards early years provision serving Thorpe Willoughby and or Hambleton. All contributions apply to dwellings with two or more bedrooms.

7.18. 8/8/2024 There is forecast to be capacity to meet demand from the development at Thorpe Willoughby Community Primary School. £366,766.40 towards facilities at Selby High School and or another secondary school serving the locality of the development. £82,051.20 towards provision at the new Selby Special School or another school with SEND provision serving the locality of the development. £27,972.00 towards early years provision serving the locality of the development. All contributions apply to dwellings with two or more bedrooms.

7.19. 1/4/2025 There is forecast to be capacity to meet demand from the development at Thorpe Willoughby Community Primary School. £ 373,473.10 towards facilities at Selby High School and or another secondary school serving the locality of the development. £83,556 towards provision at the new Selby Special School or another school with SEND provision serving the locality of the development. £28,485 towards early years provision serving the locality of the development. All contributions apply to dwellings with two or more bedrooms.

7.20. **NYC Waste and Recycling:** 4/10/2023 Concerns about internal layout of the site; design guidance provided; and the developer is required to pay for bins.

7.21. **Contaminated land consultant:** 11/10/2023 The submitted Preliminary Investigation of Land considers that significant ground contamination is unlikely to be present. The report recommends that an intrusive investigation is undertaken to ensure the materials onsite are suitable for the proposed end use. The report is considered acceptable. Conditions are recommended to secure a contaminated land assessment, remediation, verification and unexpected contamination.

7.22. **NHS Humber and Yorkshire Integrated Care Board:** 5/10/2023 The proposed development will therefore generate approximately 264 residents and subsequently increase demands upon existing services. The development will give rise to a need for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises at Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch or providing additional resource for a new build health development. A contribution of £129,662 is required for 110 dwellings.

7.23. **North Yorkshire Police:** 13/10/2023 The response provides an overview of national and local policy, crime statistics, and provide design guidance.

7.24. **Selby Area Internal Drainage District-** 17/10/2023 The site is outside the board's area so has no comments to make.

7.25. **Yorkshire Water:** 16/10/2023 Water can be supplied to the site. A condition is recommended that no building or obstruction be located within 6m of the water main that crosses the site. If this distance is to be achieved by diversion or closure of the water main, the developer shall submit evidence to the LPA that this has been agreed with the statutory undertaker. Conditions are recommended to require any liquid storage tanks should be located within a bund, and a CEMP to understand the impact of planning permission on the principal aquifer. Conditions are recommended to secure foul drainage.

7.26. The Environment Agency did not respond to consultation.

Local Representations

7.27. 70 letters of objection have been received. A summary of the comments is provided below, however, please see website for full comments.

- The site is not allocated in the local plan.
- Unnecessary development.
- The amount of growth in the village.
- Loss of greenfield site and farmland.
- Brownfield sites in Selby should be used first.
- More appropriate sites are available.
- Harm to character of the area.
- Loss of views.
- Within and harmful to LILA.
- There are no dwellings south of Field Lane.
- Conflict with green belt policy.
- Harm to residential amenity and mental health.
- Harm to ecology, Brayton Barff and ancient woodland.
- Traffic and highway concerns including traffic volume, problem parking on Field Lane, speeding/lack of speed restrictions.
- Lack of facilities and infrastructure in the village including doctors, dentist, schools, village park overcrowded with few opportunities for older children, no public transport with bus services limited and being reduced, no cycle lanes.
- Multiple applications have been refused on this site and an appeal dismissed.
- Water pipe present on site.
- Water supply and power cut issues.
- Noise, light and air pollution.
- Increased flood risk.
- Risk of damage by heavy excavating machinery to the Sherwood Triassic Aquifer lying at shallow depth below the site or pollution of groundwater.
- Construction disturbance.
- Thorpe Willoughby Parish Council will not receive the CIL money.
- Antisocial behaviour.
- Renewable energy should be secured as part of the development.

8.0 Environment Impact Assessment (EIA)

8.1. The development proposed does not fall within Schedule 1 of The Environmental Impact Assessment Regulations 2017 (as amended). The development falls within Schedule 2 Category 10(b) Urban Development Projects but does not exceed the thresholds for screening. The LPA is not required to issue a screening opinion. As such, an Environmental Statement is not required.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Loss of agricultural land

- Minerals
- Housing density and mix
- Character and appearance
- Flood risk, drainage and climate change
- Access and highway safety
- Impact upon nature conservation, protected species and ancient woodland
- Affordable housing
- Recreational open space
- Contaminated land and ground conditions
- Residential amenity
- Archaeology
- Noise and air pollution
- Developer contributions

10.0 ASSESSMENT

Principle of Development

10.1. Core Strategy Policy SP1 provides a presumption in favour of sustainable development which reflects that found within the NPPF. Policy SP2 provides a spatial development strategy for the location of future development within the former District. It directs the majority of new development to the towns and more sustainable villages. Selby, as the Principal Town, will be the focus for new housing. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing growth will take place appropriate to the size and role of each settlement. The Core Strategy designates Thorpe Willoughby as a Designated Service Village (DSV). Core Strategy paragraph 4.12 states "villages which are considered capable of accommodating additional limited growth have been identified as 'Designated Service Villages'". With regard to Designated Service Villages (DSVs), paragraph 4.27 states "The overriding strategy of concentrating growth in Selby and to a lesser extent in the Local Service Centres means that there is less scope for continued growth in villages on the scale previously experienced. However, there is insufficient capacity to absorb all future growth in the three towns without compromising environmental and sustainability objectives. Limited further growth in those villages which have a good range of local services (as identified above) is considered appropriate".

10.2. Policy SP2 A a) confirms Thorpe Willoughby has some scope for additional residential growth to support rural sustainability and to complement growth in the Principal Town of Selby. Though the supporting text of Policy SP2 states that DSVs are suited to 'limited further growth', Thorpe Willoughby is one of 3 DSVs identified as particularly sustainably located, within which growth will complement that in Selby. However, the application site is not within the development limits of the village but is within the countryside adjacent to the development limit.

10.3. Policy SP2A(c) of the Core Strategy says: *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural*

communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."

10.4. Policies SP10 Rural Housing Exception Sites and SP13 Scale and Distribution of Economic Growth do not apply to the proposal nor are there other special circumstances.

10.5. The site lies outside the development limit of Thorpe Willoughby, within the open countryside. In this regard the type and location of development proposed would conflict with Policy SP2.

10.6. NPPF paragraph 11 sets out the presumption in favour of sustainable development which states "**11.** Plans and decisions should apply a presumption in favour of sustainable development…….. For decision-taking this means:….. d) where…… the policies which are most important for determining the application are out-of-date [8], granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance[7] provides a strong reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination [9]."

10.7. Policies SP2 and SP5 are the most important for determining the application and are out of date because the LPA cannot demonstrate a five-year supply of deliverable housing sites. Furthermore, Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. There is a 2.6 year supply based on the latest standard method calculation. No NPPF policy relevant to the areas or assets noted in NPPF foot note 7 would provide a strong reason to refuse development. These are "(7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change." The adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits as described in paragraph 11d ii, with particular regard to the key policies. These are defined in footnote 9 as "(9) The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12." These are detailed in the relevant sections below. Therefore, the presumption in favour of sustainable development applies to the proposal.

10.8. It is still possible to give weight to development plan policies even if they are considered out of date. As set out in NPPF paragraph 232, due weight should be given to policies, according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). NPPF paragraph 61 states "To support the Government's objective of

significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed……. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community." The hierarchy outlined within Policy SP2 itself remains soundly based on an understanding of the role and function of different settlements within the former District. However, continued strict application of Policy SP2A(c), which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight. The first reason for refusal of application 2022/1483/OUTM does not apply to this application because of the significantly different policy context.

10.9. There remains a requirement to consider the impact on the character and appearance of the area and other technical matters as detailed below.

10.10. In respect of sustainability, the village contains a primary school, public house, a village hall, a church, two general stores, a hairdressers, coffee shop and deli, hot food take-away, a pharmacy and sport and recreation facilities which include playing fields. It also benefits from a somewhat limited bus services to Selby and Leeds. In terms of access to services and facilities and a choice of mode of transport, the site can be considered as being in a fairly sustainable location with some alternatives to car-based travel. NPPF paragraph 84 which restricts isolated dwellings does not apply, nor does paragraph 91 which relates to main town centre uses.

Section 149 of The Equality Act 2010

10.11. Under Section 148 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.12. The development of the site for residential purposes would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics and could in the longer term have a positive effect.

<u>Loss of Agricultural Land</u>

10.13. The site is used for arable agricultural purposes. Policy SP18 of the Core Strategy seeks to sustain the natural environment by steering development to areas of least agricultural quality. NPPF paragraph 187 states that decisions should contribute to and enhance the natural and local environment by b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and

most versatile agricultural land. Policy SP18 is consistent with the NPPF and is given significant weight.

10.14. Agricultural land is classified using grades 1, 2, 3a, 3b, 4 and 5. Best and most versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification. The Yorkshire and Humber Agricultural Land Classification indicates the site is entirely grade 3 'good to moderate' agricultural land. It does not differentiate between grades 3a and 3b. The application includes an agricultural land classification report demonstrating the site is grade 3b land. The site is not best and most versatile agricultural land. Natural England is not a statutory consultee for the loss of this grade of land. The proposal is considered to achieve the local and national policy aim of steering development to areas of least agricultural quality given the lack of alternative sites of grades 4 or 5 land. The loss of agricultural land is acceptable. The second reason for refusal of 2022/1483/OUTM is overcome for these reasons.

Minerals

10.15. The site is within a sand and gravel safeguard area designated by policy S01 of the Minerals and Waste Joint Plan. Policy S02 requires a minerals assessment for non-exempt development such as this. The submitted mineral resource assessment concludes "The site may have stratum within its boundaries that are Safeguarded by North Yorkshire County Council but given that the Lacustrine Beach Deposits are shown off site, they may not be encountered or be present in very small quantities making it uneconomical. Sand as highly weathered rockhead maybe encountered however it is assumed that this material will be poor quality and is not safe guarded."

10.16. The NYC Minerals and Waste Team consider the conclusion of the assessment to be acceptable. The proposal complies with the following criterion of Policy S02 ''iv) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource".

10.17. The proposal demonstrates mineral impacts are acceptable in accordance with Policies S01 and S02 of the Minerals and Waste Joint Plan. The third reason for refusal of application 2022/1483/OUTM is overcome for these reasons.

10.18. The site is identified on the Coal Authority interactive map as lying within a low-risk area for which the standing advice is to impose an informative to draw this risk to the developer's attention.

Housing Density and Mix

Density

10.19. Saved Policy H2B of the Local Plan states "Proposals for residential development will be expected to achieve a minimum net density of 30 dwellings per hectare in order to ensure the efficient use of land. Higher densities will be required where appropriate particularly within the market towns and in locations with good access to services and facilities and/or good public transport. Lower densities will only be acceptable where

there is an overriding need to safeguard the existing form and character of the area or other environmental or physical considerations apply".

10.20. Core Strategy paragraph 7.80 states "The quality of design in its local context is more important than relying on a minimum housing density figure to benchmark development……. Therefore, the Council does not propose to set a development density figure in this strategic plan". Policy SP19 states residential development should "Positively contribute to an area's identity and heritage in terms of scale, density and layout".

10.21. NPPF footnote 9 requires consideration of NPPF paragraph 129 which requires "Planning policies and decisions should support development that makes efficient use of land, taking into account: (a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; (b) local market conditions and viability; (c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use; (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and (e) the importance of securing well-designed, attractive and healthy places."

10.22. Paragraph 130 encourages consideration of minimum densities "where there is an existing or anticipated shortage of land for meeting identified housing needs".

10.23. The proposal is in outline and the submitted plans show how the site could be developed rather than how it will be developed. The precise density of the proposal will be established at reserved matters stage.

Housing Mix

10.24. Policy SP8 Housing Mix states "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." NPPF paragraph 64 seeks to create mixed and balanced communities through affordable housing provision. This policy is consistent with the NPPF and is given significant weight.

10.25. Paragraph 10.36 of the Housing and Economic Development Needs Assessment (HEDNA) (October 2020) states: "The 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time, and demand can change over time linked to macro-economic factors and local supply." The wording of the HEDNA intends to provide an element of flexibility in the precise mix put forwarded within applications. The table below from the 2020 HEDNA shows the need for sizes of homes per tenure type.

Type of Housing	Size of House			
	1 bed	2 bed	3 bed	4+ bed
Market	0-10%	25-35%	40-50%	15-25%
Affordable home ownership	10-20%	40-50%	30-40%	0-10%
Affordable housing (rented)	30-40%	35-45%	15-25%	0-10%

10.26. The application form does not confirm the precise housing mix given the outline nature of the application. Therefore, in order to prevent a pronounced overprovision of a single house type and to secure a mixed and balanced community, a condition is required to ensure the precise housing mix is submitted with the reserved matters application and agreed by the Council in order to comply with Policy SP8 and the HEDNA.

10.27. The Housing and Economic Development Needs Assessment 2020 shows there is predicted to be "A 72% increase in the number of people aged 65+ with dementia and a 60% increase in those aged 65+ with mobility problems (2020-40)". It recommends 5% of dwellings should meet Building Regulations M4(3)- wheelchair user dwellings. The 5% figure is increased to 6% to account for minor development not making such provision. It is considered necessary to condition this to ensure housing meets future needs.

10.28. The Self-build and Custom Housebuilding Report 2024 December 2024 shows, on 30th October 2023, there were 39 individuals on the Selby register. The report also says 188 plots were permissioned between 1 April 2016 and 30 October 2023. However, there is some uncertainty going forward as to whether these permissions would count against need because the most recent appeal decisions show a need to secure self and custom build by s106 for it to count. It is prudent to consider there is a significant unmet meet in the area and the 3% of all plots as self or custom build proposed is reasonable to secure an appropriate housing mix. This will be secured by s106 agreement.

Character and Appearance

10.29. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Policy SP19 requires proposals to have regard to local character, identity and context of its surroundings including settlement patterns and the open countryside.

10.30. NPPF footnote 9 requires consideration of paragraph 135 which requires planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 139 resists bad design and supports good design.

10.31. It is important to note that a very similar application on this site, reference 2022/1483/OUTM, was refused on 15/5/2023 and that the report to and decision of planning committee did not give impacts on the character and appearance of the area as a reason for refusal, in line with the findings of the Inspector for the previous proposal.

10.32. One such area of acknowledged importance is the Locally Important Landscape Area (LILA) directly to the east of the application site. Local Plan Policy ENV15 is concerned only with proposals on sites within a designated LILA, rather than sites within their setting, a point confirmed by the Inspector for APP/N2739/W/17/3181460.

10.33. The appeal decision refers to the Landscape Appraisal (January 2011) which is a Core Strategy background paper, the main purpose of which was to inform the Core Strategy and future Site Allocations DPD regarding those areas where the landscape has a higher sensitivity to development. The Selby District Landscape Sensitivity Study updated report (October 2021) is considered to be a more up to date evidence base document that supersedes the Landscape Appraisal (January 2011). Similarly, the Selby Landscape Character Assessment (November 2019) is the most up to date evidence base document concerning landscape character.

10.34. It would not be appropriate to use the Selby District Local Landscape Designation Review (December 2019) in the determination of this application because the candidate LILA site, of which the application site forms a part, was to be designated by a policy in the now withdrawn Selby Local Plan publication version. That Plan would need to be adopted for the site to be within a LILA but as the emerging Selby Local Plan has been withdrawn, the site no longer forms part of the LILA.

10.35. The Selby Landscape Character Assessment (November 2019) identifies the application site as falling within character area 14 Hambleton Sandstone Ridge with key characteristics including being characterised by two low but distinct and densely wooded hills: Brayton Barff; and Hambleton Hough, which offer panoramic views. The key sensitivities, physical character section, notes the hills are sensitive to change compared to the flatter more undulating land surrounding them and that away from the hills themselves the density of woodland may allow sensitive siting of some development though this should respect the setting of the hills. Management guidelines for the area include: housing development around Thorpe Willoughby should be sensitively sited and designed so as to respect the setting of Brayton Barff, and so as not to significantly impact on views from these hills.

10.36. The Selby District Landscape Sensitivity Study (October 2021) identifies the application site as falling within land parcel reference TW2 with an overall landscape sensitivity score of low to medium. The more detailed landscape assessment for the parcel has seven criteria, with one scoring low and six scoring low to medium. Overall development guidelines state “Development within the Parcel would continue to contain the settlement within the corridors of the A1238 and the A63 and could afford opportunities to enhance the existing harsh settlement edge at Privet Drive.” The summary table on page 119 provides an overall assessment of landscape sensitivity to a 2-3 storey residential housing development scenario in which parcel TW2 scores low to medium whereas parcel TW4 immediately to the east (to the east of the

application site) scores medium to high. The table states “Few of the key characteristics and qualities of …. TW2 are vulnerable to change as a result of the introduction of the development scenario, resulting in an overall low-moderate sensitivity…… The role TW4 plays in forming the setting to Brayton Barff as well as the presence of the LILA contributes to an overall moderate-high sensitivity to the introduction of the development scenario.”

10.37. The three fields comprising the application site are of limited landscape value and are screened by almost continuous boundary hedging along the Field Lane frontage and the extensive woodland planting between the site and the A63 bypass. The latter would serve as a very definite physical boundary to the village if the site were to be developed. Short sections of the boundary hedge would need to be removed to facilitate access to the site but there would be scope for some replanting behind the requisite visibility splays. The development would be contained by existing boundary treatments and additional landscaping within the site layout and would not give rise to significant visual harm from outside of the site.

10.38. Given its current use and appearance the site is considered to function as open countryside, in accordance with the view of the Inspector. However, the development would be visually contained by the dense planting along the boundary with the A63, and to a lesser degree by the tree line along the eastern boundary with the public right of way. The harm arising from the proposed residential development, which accords with the 2 to 3 storey development scenario tested in the Selby District Landscape Sensitivity Study (October 2021), to the character and setting of the village would not be significant and the proposal would have a limited effect on this part of land parcel TW2.

10.39. Brayton Barff is a valued landscape feature and is well used as a recreational resource. The hill is the principal feature within the slightly more extensive Locally Important Landscape Area (LILA). No direct harm to the character of the Barff and LILA would occur and the main issue relates to the potential effect on the setting of the Barff. The open fields to the east of the application site provide for a substantial landscape buffer between the site and the Barff and there is limited intervisibility between the two. The greater sensitivity of this field to the east of the application site is reflected in the overall moderate-high sensitivity of parcel TW4 recognised in the Selby District Landscape Sensitivity Study (October 2021).

10.40. Very limited views of the site are available from the footpath around the lower slopes of the Barff and, where these do exist, they are heavily filtered by intervening trees and hedges even during winter months. The gable ends to a few of the houses might appear in some of those views but they would be seen at some distance and against the background of the existing built edge of the village. Appropriate mitigation is achieved by condition by additional planting along the eastern boundary of the site. Such planting would also soften views of the houses from the public footpath at the eastern edge of the site and could be used to reduce any increased sense of enclosure to that path. Users of the footpath would experience some change in views but this is not considered to amount to material harm.

10.41. Although Brayton Barff is visible from Field Lane, only the upper parts of the wooded hill are seen above the roadside hedge. Other than through the small number of field gates, the fields comprising the application site are not seen in these views and do not form part of the setting of the Barff as experienced from the road or pavement. Residents of properties on Field Lane may have a clearer view from upper floor windows but, even in those views, the site is likely to form only a limited part of the foreground to the Barff. The fields in parcel TW4 play are greater role in the setting of the Barff and within the LILA itself, and the lack of tree cover serves to emphasise the height of the Barff. These fields would not be developed under these proposals.

10.42. It is considered the application site makes no significant contribution to the setting of Brayton Barff and that there would be no material harm either to that setting or to the character of the LILA. No conflict arises with CS Policy SP18 which seeks the protection of landscape character and of the setting of areas of acknowledge importance subject to the aforementioned condition.

10.43. The Council's Landscape Architect reiterates their comments from the previous application which note the adopted Hambleton Hough LILA and adopted Brayton Barff LILA are proposed to be expanded into one continuous LILA in the Selby District Local Landscape Designation Review (December 2019) which in turn informs such a designation in the emerging Local Plan. The expanded LILA would include the application site. The Landscape Architect provides a considered description of the topography; vegetation; and access to the countryside and nature. Further details of the most pertinent of the six criteria used to assess the quality and sensitivity of the landscape are also provided, along with management recommendations within the Landscape Designation Review. They consider that the proposed development would disrupt the setting of Brayton Barff and the sweep of landscape between the two hills.

10.44. The Council's Landscape Architect raises concerns the proposed development would represent a clear extension of the built form into the open countryside and would fundamentally alter the character of this part of the candidate LILA. It would also alter the setting of Brayton Barff as viewed from the historic route of Field Lane. They consider the proposed development would cause a significant erosion of openness which is an important characteristic of the fields that form the setting of Brayton Barff. The openness and more level topography of the fields contrasts with the wooded slopes of the hill and that the proposal would have a significant adverse effect on the landscape character of the site and in turn on the immediate area. They consider the proposal would change the perceived character and context of the village and its association with Brayton Barf if this defined edge were corrupted by more housing on the opposite side of the road, and that the development would disrupt the simplicity of the open landscape and views from Field Lane towards Brayton Barff. They note due to the height and location of the proposed development; new housing would be visible over the top of the hedge; and would occupy a substantial portion of such views from Field Lane, thereby causing significant harm to the existing uncluttered, attractive views of Brayton Barff. The sense of foreground openness would be lost.

10.45. The comments and concerns of the Landscape Architect are noted, as are those of objectors. However, as noted above, it is considered inappropriate to use the Selby District Local Landscape Designation Review (December 2019) because the

candidate LILA site, of which the application site forms a part, has not been adopted due to the withdrawal of the Selby Local Plan publication version. The previous report to planning committee and the decision of planning committee, as well as the earlier appeal decision concluded the character and appearance impacts of the identical proposal, were acceptable.

10.46. The proposal would give rise to limited visual harm from outside of the site and limited harm to the character and setting of the village, subject to condition, which will be weighed in the planning balance. There would be a need to condition an Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement to ensure suitable protection of the existing trees as part of the development.

Flood Risk, Drainage and Climate Change

10.47. Relevant policies in respect of flood risk, drainage and climate change include Policy ENV1(3) of the Selby District Local Plan and Policies SP15 “Sustainable Development which seeks to apply sequential and exceptions tests, and Climate Change”, SP16 “improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy. NPPF paragraph 170 requires “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.” NPPF paragraph 173 requires a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. The proposal does not benefit from the exemption in NPPF paragraph 175. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The development plan policies are consistent with the NPPF and are given significant weight.

10.48. The site is in flood zone 1 (low risk) for sea and river flooding, western areas of the site are in low, medium and high surface water flood risk areas and eastern parts of the site are at low and medium risk of surface water flooding. The flood maps show that the development site is considered to be at risk from reservoir flooding during normal river conditions but this risk is minimal because it is maintained by Yorkshire Water. The submitted flood risk assessment considers these sources of flooding as well as groundwater flooding but this will be better understood once a detailed ground investigation takes place and if necessary mitigated against at detailed design stage. The site is in an area known to be at risk of flooding therefore a flood risk sequential test is required. It is considered reasonable to restrict the area of search to within and immediately adjacent to the development limits of the village because development elsewhere would not result in the wider sustainability benefits associated with development of this nature in this location. Furthermore, this area of search is supported by the Selby District Council Flood Risk Sequential Test Developer Guidance Note - October 2019. There are no reasonably available alternative sites in this area of search at lower risk of flooding than the application site. The flood risk sequential test is passed. The exceptions test is not required as set out in Table 2 of the flood risk planning practice guidance.

10.49. NPPF paragraph 182 requires sustainable drainage systems for this development. The surface water flood risk is restricted to small parts of the site. The indicative site layout shows dwellings within these areas. It will be necessary to condition details of ground levels and related finished floor levels be provided to ensure dwellings do not flood. Requirement H3 of the Building Regulations establishes a preferred hierarchy for disposal of surface water. Consideration should firstly be given to soakaway, infiltration, watercourse and sewer in that priority order. The flood risk assessment discusses surface water drainage options without providing a ground investigation including infiltration testing. Therefore, a surface water drainage condition will be required. Foul water drainage is indicated to connect to the Yorkshire Water system within Field Lane. A foul water drainage condition will be required.

10.50. The LLFA recommends conditions for foul and surface water drainage, attenuation storage, maintenance, exceedance flow routes, percolation testing and finished floor levels of dwellings. The latter is dealt with by a ground levels and finished floor levels condition, the remainder by the simplified and amalgamated general foul and surface water drainage conditions. There are no Internal Drainage Board comments to consider. The Environment Agency did not respond to consultation.

10.51. Yorkshire Water confirms three of its water mains pass through the site and recommends a condition regarding the layout and landscaping of the proposal, or diversion of the mains. Layout and landscaping matters are not before the LPA for determination but in general terms this is not considered to be a fundamental impediment to development of the site. Therefore, the condition is unnecessary and these matters will be addressed at reserved matters stage. YW confirms a water supply can be provided to the site. YW recommends conditions regarding the bunding of any liquid storage tanks and a construction environmental management plan to understand the impact of planning permission on the principal aquifer. These matters are controlled by the foul and surface water, and construction management plan conditions. These conditions will also enable pollution interception and lining of foul sewers to protect the water environment to be secured if necessary. YW recommends a condition regarding the piped discharge of surface water from the application site and a foul water scheme. Both matters are controlled by the foul and surface water drainage conditions. Allowances for climate change will be made in the final drainage scheme.

10.52. Flood risk, drainage and climate change matters are acceptable subject to conditions.

Access, Transport and Highway Safety

10.53. Relevant policies include Core Strategy Policy SP15 which requires the proposal to minimise traffic growth by providing a range of sustainable travel options (including walking, cycling and public transport) through Travel Plans and Transport Assessments and facilitate advances in travel technology such as Electric Vehicle charging points, and make provision for cycle lanes, cycling facilities, safe pedestrian routes and improved public transport facilities. The following policies are also relevant: Core Strategy Policy SP19, Selby District Local Plan Policies ENV1, T1, T2, T7 and CS6. The latter states “The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that

are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development" including traffic calming, footpath and cycleway links.

10.54. NPPF paragraph 109 requires transport issues should be considered from the earliest stages of development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve: ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places; understanding and addressing the potential impacts of development on transport networks; realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage – for example in relation to the scale, location or density of development that can be accommodated; identifying and pursuing opportunities to promote walking, cycling and public transport use. NPPF footnote 9 requires consideration of paragraph 110 which states requires the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

10.55. Paragraph 115 requires sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach. Paragraph 116 states "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, following mitigation, would be severe, taking into account all reasonable future scenarios."

10.56. Paragraph 117 requires development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.

10.57. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.

10.58. The application form confirms approval is sought for access matters to the site but not within the site. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access as: "in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site

in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made."

10.59. Two vehicular, pedestrian and cyclist accesses to the site are proposed from Field Lane via priority junctions which will be 5.5 metres wide and feature 2 metre wide footpaths to either side. Visibility splays of 2.4 metres x 59 metres to the west and 2.4m x 57m to the east are shown on the Indicative Layout at both accesses. Tactile pedestrian crossing points are proposed across each proposed access and Field Lane to the east of each access. A further tactile crossing is proposed on Fox Lane. Raised vehicular tables are proposed at each junction with Field Lane. A 2m wide footway to the site frontage is proposed. Pedestrian access is proposed from the public right of way to the east of the site. Pedestrian access is also proposed at the western edge of the site on to Field Lane. The access proposals are shown on the Indicative Layout drawing number 2444 / 002 REV E.

10.60. The application includes a Transport Assessment and Travel Plan. The submitted Transport Assessment Addendum was prepared to address the main issues raised by the Local Highway Authority in its initial response to the TA. It uses collision data to show there are no accident blackspots near the site. Existing traffic flows on Field Lane were measured by traffic count, the proposed development would add 56 two-way vehicles in each of the peak hours and in the busiest peak and including the development traffic, Field Lane will be operating at only 28% of its traffic carrying capacity. Traffic speeds of 36 to 37mph (85^{th} percentile of all movements) were recorded on Field Lane despite the 30mph speed limit. Raised tables are now proposed as part of the development access design to assist in the reduction of traffic speeds. The impacts of the proposals combined with committed development have been modelled on the junctions of the A1238 Leeds Road with Fox Lane, the A63 with A1238 Leeds Road and the A19 with Barff Lane in Brayton. The developments impact on the junction of Gowthorpe with the A19 and Scott Road have also been considered. The assessment considers the proposal will have minimal impact on these junctions. The assessment concludes there are no reasons why planning permission should not be granted.

10.61. The latest LHA comments note the additional highway information submitted and consider the access arrangements acceptable. The LHA does not raise any objections to the proposal. The LHA considers the Barff Lane/A19 junction to be at capacity and will be made increasingly worse by the development. It requests a contribution of £50,000 to change the traffic light system which will increase capacity. £1350 per dwelling is requested for cycle infrastructure improvements in the area. £1,266 per dwelling is requested towards bus service enhancements in the area. These requests are considered compliant with section 122 of The Community Infrastructure Levy Regulations 2010 (as amended) because they will enhance the sustainability credentials of a development in an area with somewhat limited bus services and would encourage cycling to adjacent settlements, both of which would reduce the impact of the development on the heavily trafficked Gowthorpe junction and Barff Lane/A19 junction, as well as being in accordance with the aim of NPPF paragraph 110 and the development plan policies noted above. The contribution would be towards the provision of an offsite walking and cycling link between Thorpe Willoughby and Selby as set out in the North Yorkshire County Council and Selby

District Council Local Cycling and Walking Infrastructure Plan. The aim is to provide infrastructure improvements to mitigate the impacts of the development upon the existing highway from additional trips and to encourage sustainable transport. The sums would be used towards implementation of the cycle strategy for Selby the fundamental aim of which is to provide key safe routes to reduce congestion in the town centre. Access to bus stops on Fox Lane and Leeds Road for the 64 and or 164 bus services are both within the maximum desirable walking distance of 2km (Providing For Journeys On Foot Published By The Institution Of Highways & Transportation 2000). It is understood that the bus stops to the front of the site are not in use for these services.

10.62. The LHA has not requested but there is a need to secure a travel plan monitoring contribution of £5,000. The TAA refers to an amended Travel Plan to overcome concerns with the initial version but this has not been submitted resulting in a need to condition a Travel Plan. The LHA recommends conditions regarding double yellow lines to Field Lane either side of the western access to address highway safety; delivery of highway infrastructure; road and footway connections for residents; off site highway works; visibility splays at Field Lane; another condition relating to delivery of off site highway works; travel plan; and construction management plan. These have been amalgamated and amended where required.

10.63. There are no harmful impacts upon the highway network as a result of the proposal. The series of conditions and developer contributions would secure appropriate details and enhancements to promote sustainable travel. The highway implications are acceptable. The fourth reason for refusal of 2022/1483/OUTM is overcome for these reasons.

Impact upon Nature Conservation, Protected Species and Ancient Woodland

10.64. Local Plan Policy ENV1 requires account is taken of the potential loss, or adverse effect upon, significant wildlife habitats.

10.65. The foreword to Core Strategy Policy SP2 states the protection and enhancement of biodiversity and natural resources is a basic principle of national planning guidance, which can also influence the location of development. Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by promoting effective stewardship of the District's wildlife by a) safeguarding international, national and locally protected sites for nature conservation, including SINCs, from inappropriate development. b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

10.66. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the

development plan; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 193 requires when determining planning applications, local planning authorities should apply the following principles: a) 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; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists. Natural England and Forestry Commission 'standing advice' for ancient woodland emphasises this policy and requires consideration of direct and indirect effects. The advice notes the latter includes "increasing damage to habitat, for example trampling of plants and erosion of soil by people accessing the woodland or tree root protection areas; and increasing damaging activities like….the impact of domestic pets".

10.67. The development plan policies are consistent with the NPPF and are given significant weight.

10.68. The submitted ecological impact assessment concludes mitigation can be dealt with by condition and biodiversity net gain can be secured by using off site land within the applicants ownership. It anticipates a residual negative impact on Brayton Barff SINC and ancient woodland is still expected, despite both on and offsite public open space being provided and that mitigation measures within Brayton Barff SINC itself would be required in order to reach a neutral position. It recommends a biodiversity management plan, a construction environmental management plan for biodiversity and a sensitive lighting plan are secured by condition. These are amalgamated into a single condition. Following the Inspectors findings in the Brayton appeal decision APP/U2750/W/23/3327616 (appendix E) regarding the impacts of residential development upon Brayton Barff SINC and ancient woodland, which note the lack of an evidential base for the LPA to quantify harm to these sites, the appropriate response is to ensure appropriate on-site open space is provided. This could be secured by condition. There is not considered to be any harmful impact upon the SINC and ancient woodland, or protected species subject to conditions. BNG would form part of the s106 given the need for off-site land.

10.69. The proposal demonstrates ecological and protected sites impacts are acceptable in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP2 and SP18 of the Core Strategy and the NPPF. The fifth reason for refusal of 2022/1483/OUTM is overcome for these reasons.

Affordable Housing

10.70. Policy SP9 Affordable Housing seeks to achieve a 40/60% affordable/general market housing ratio within overall housing delivery; in pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the

total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more; the tenure split and the type of housing being sought will be based on the Council's latest evidence on local need; and an appropriate agreement will be secured at the time of granting planning permission to secure the long-term future of affordable housing. The actual amount of affordable housing, or commuted sum payment to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

10.71. The Developer Contributions SPD (2007) contains a section called "affordable housing for local needs" which is considered to have been superseded by the Affordable Housing Supplementary Planning Document (2014). The Affordable Housing SPD states "1.4 The latest Strategic Housing Market Assessment (2009) ("SHMA") identifies the scale of need for affordable housing in the District over the Local Plan period. The SHMA establishes an overall target of 30-50% intermediate housing and 50-70% social rented housing. To meet identified need, affordable housing needs to be the right kind of housing in the right locations. Following the introduction of the Government's Affordable Rent category, the Council will be gathering evidence to establish the identified need and tenure split of rented housing. This will be set out through a combination of this SPD, future Strategic Housing Market Assessments (SHMAs) and future development plan documents (as appropriate)……6.3 Negotiations on affordable housing provision on specific sites will also be informed by any further up to date evidence, which will include the latest Strategic Housing Market Assessment (SHMA), current information from the Selby District / North Yorkshire Housing Register, and evidence of existing affordable housing provision in the locality, including the Census 2011."

10.72. There is a Strategic Housing Market Assessment Update dated February 2019 but this has been overtaken by the more recent Housing and Economic Development Needs Assessment October 2020. Pages 13-15 and 125 of the HEDNA state:

- "When looking at the need for affordable homes to rent, we suggest a need for 141 affordable homes per annum."
- "The majority of the rented need is for social rented housing, although there is also a role for affordable rent."
- "It is not recommended that the Council have a rigid policy for the split between social and affordable rented housing."
- "There are some households likely to be able to afford to rent privately but who cannot afford to buy a suitable home. However, there is also a potential supply of homes within the existing stock that can contribute to meeting this need. It is thus difficult to robustly identify an overall need for affordable home ownership products."
- "If the Council does seek to provide 10% of housing as affordable home ownership (the default figure suggested in the NPPF), then it is suggested that shared ownership is the most appropriate option. This is due to the lower deposit requirements and lower overall costs (given that the rent would also be subsidised)."
- "There is no basis to increase the provision of affordable home ownership above the 10% figure currently suggested in the NPPF and indeed does

provide evidence that the 10% figure could be challenged if the Council wished to do so."

- "However, it does seem that many households in Selby are being excluded from the owner-occupied sector. The analysis would, therefore, suggest that a key issue in the District is about access to capital (e.g. for deposits, stamp duty, legal costs) as well as potentially mortgage restrictions (e.g. where employment is temporary) rather than simply the cost of housing to buy." (page 125).

10.73. NPPF paragraph 65 permits affordable housing to be sought on major developments such as this. NPPF footnote 9 requires consideration of Paragraph 66 which expects that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Footnote 31 states "The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need."

10.74. Policy SP9 provides a broad basis for securing affordable housing and is consistent with the NPPF. The Selby Local Plan and CIL Viability Assessment (August 2022) indicates 20% affordable housing should be sought for this area.

10.75. Affordable housing and viability matters were explored in an appeal decision dated 30th January 2025 for a site in Hambleton reference APP/U2750/W/24/3347885 (appendix C). The inspector set out:

- The maximum 40% affordable housing in Policy SP9 is derived from an assessment in around 2009.
- However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (Selby Local Plan & CIL Viability Assessment (2022) to inform Policy HG7 in the emerging Selby Local Plan, and this says it considers a greenfield delivery of 20% affordable housing to be viable in this area of Thorpe Willoughby.
- Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report when compared to that informing the Core Strategy, the Inspector considered this report constitutes a material consideration to which was given significant weight in his assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks 'up to a maximum' of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.
- The appellants viability appraisal showed with an 18% profit, 10% affordable housing was viable. The Council considered 30% affordable housing was viable due mainly to differing opinions regarding gross development value and abnormal costs.

- Such appraisals involve subjective judgements. Neither is necessarily wrong. The appellants proposal of 10% would be in line with the Aspinall Verdi report. That report did not say 10% is the starting point for negotiations for a higher percentage. Such an approach would remove any certainty or confidence from the process.
- The Inspector favoured the appellants use of historic sales values from the specific settlement, adjusted by index linking, rather than those from nearby villages.
- The Inspector found in favour of the appellants approach to viability.
- The Inspector dismissed the Council suggestion that affordable housing levels be revisited at reserved matters stage because there would be no need to have undertaken such work at outline stage and in his opinion delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward.

10.76. The same matter was considered in an appeal decision dated 20th February 2025 (Appendix D) at land east of Broadacres, Mill Lane, Carlton reference APP/U2750/W/24/3347833. The Inspector considered "11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal where the Inspector Ref: APPU2750/W/24/3347885 considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved."

10.77. The application proposes 10% affordable housing in accordance with the Aspinall Verdi report. Affordable housing should be secured as percentages given the outline nature of the proposal means the final number of dwellings may change at reserved matters stage. The new NPPF does not require First Homes but it is possible for applicants to propose them. In light of the recent appeal decisions it is considered appropriate to accept the proposed 10% affordable housing because it aligns with the most up to date viability evidence that supported the now withdrawn emerging local plan. This is in accordance with Policy SP9.

10.78. Overall, affordable housing policy requirements are as follows:

- 10% of the total number of dwellings are to be affordable housing. Of these 25% can be First Homes. If the developer is unable to dispose of the FH units a legal clause will require other opportunities to be considered before they are disposed of on the open market. These are: An option for the Council to buy or nominate a purchaser. This is for the Council or said purchaser to utilise the unit as another form of affordable tenure, be that intermediate or rental; or the payment of an additional FH Charge at 30% of the market value of the

property to the Council. This allows the property to be sold on the open market and the sum (30%) ring-fenced for the delivery of affordable housing in the locality by the Council. The overall split shall be 25% First Homes, 65% affordable rent and 10% shared ownership.

10.79. The applicant has agreed these percentages. A s106 agreement will secure this affordable housing.

Recreational Open Space

10.80. Policy RT2 requires the proposal to provide recreational open space at a rate of 60sqm per dwelling on the following basis “provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision. Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.”

10.81. The Developer Contributions Supplementary Planning Document 2007 provides further guidance on the provision of open space.

10.82. The NPPF at paragraphs 96 and 98 advises that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs for example through the provision of safe and accessible green infrastructure and the provision and use of shared spaces such as open spaces. Paragraph 103 reinforces the importance of access to open space, sport and physical activity for health and wellbeing. Policies should be based on robust and up to date assessment of needs and opportunities for new provision.

10.83. Policy RT2 is considered consistent with the NPPF and is given significant weight.

10.84. A condition will require the reserved matters application to provide 60sqm of open space per dwelling. It is also considered necessary to condition a local area for play (LAP) for toddlers and younger children and a local equipped area for play (LEAP) to cater for slightly older children. A s106 will secure implementation, ownership and maintenance of play areas and all recreational open space. These matters are acceptable.

Contaminated Land and Ground Conditions

10.85. Policy ENV2 of the Local Plan states “Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.” Part B of the policy allows contaminated land conditions to be attached to permissions.

10.86. Core Strategy Policy SP18 seeks to protect the high quality of the natural and man-made environment by ensuring that new development protects soil, air and water

quality from all types of pollution. This is reflected in Policy SP19 (k), which seeks to prevent development from contributing to or being put an unacceptable risk from unacceptable levels of soil or water pollution or land instability.

10.87. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 198 requires decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so Council's should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 199 requires decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

10.88. These development plan policies are consistent with the NPPF and are given significant weight.

10.89. The preliminary investigation of land shows that the site is currently used as agricultural land. No past industrial activities are recorded on the site, but surrounding land has previously been used as a military camp, a pig progeny testing station, and sewage works. The report considers that significant ground contamination is unlikely to be present, as the site has not been previously developed. However, in view of the proposed residential development, it recommends that an intrusive investigation is undertaken to ensure the materials onsite are suitable for the proposed end use. The proposed intrusive investigation comprises: Trial pits/mini percussive boreholes to enable the made ground and natural soils to be examined and shallow rock to be identified; and appropriate sampling to enable chemical and geotechnical testing to be carried out.

10.90. The Council's contaminated land consultant advises the report and recommendations are acceptable. Conditions are recommended regarding investigation of contaminated land; submission of a remediation strategy; verification of remediation works; and reporting of unexpected contamination.

10.91. In light of the above and subject to suitable conditions, it is considered that the proposal would not breach Convention rights contained in the Human Rights Act 1998 in terms of the right to health and right to private and family life.

Residential Amenity

10.92. Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1. Significant weight is given to this policy as it is broadly

consistent with NPPF paragraph 135 (f) which seeks to ensure a high standard of amenity for existing and future users.

10.93. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

10.94. The application site is located in the countryside to the south of Thorpe Willoughby and there are residential dwellings to the north on the opposite side of Field Lane. It will be possible at reserved matters stage to ensure a layout, scale and appearance of proposed dwellings that has appropriate separation distances between each other and to existing dwellings and their gardens.

10.95. The proposed land use is considered compatible with surrounding land uses. No harm would arise to residential amenity from the traffic generated by the proposal. Construction disturbance would be minimised by construction management plan, development hours and piling conditions as recommended by Environmental Health. These are amended and amalgamated where necessary.

10.96. On this basis it is considered that the scheme is acceptable in terms of the residential amenity impacts and accords with Policy ENV1 and the NPPF.

10.97. In light of the above, it is considered that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

Archaeology

10.98. Policy ENV28 requires that where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/evaluation to be submitted as part of the planning application; where development affecting archaeological remains is acceptable in principle, the Council will require that archaeological remains are preserved in situ through careful design and layout of new development; where preservation in situ is not justified, the Council will require that arrangements are made by the developer to ensure that adequate time and resources are available to allow archaeological investigation and recording by a competent archaeological organisation prior to or during development.

10.99. NPPF paragraph 207 requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The development plan policy is consistent with the NPPF and is given significant weight.

10.100. The LPA archaeologist does not require further archaeological investigation and raises no objections to the proposal. Archaeological impacts are acceptable.

Noise and Air Pollution

10.101. The policies referred to in the contaminated land section above are relevant.

10.102. Environmental Health note the submitted noise assessment is preliminary. It concludes the site is suitable for noise-sensitive residential development, provided that a commensurate level of protection against noise is incorporated into the design of the development to secure an acceptable degree of amenity for the future residents. A condition secures appropriate noise mitigation measures at reserved matters stage.

10.103. Environmental Health also recommend a condition to control the cumulative level of sound from the development at nearby sensitive receptors if air source heat pumps are to be used as part of the as yet unknown energy strategy. However, this condition is considered unnecessary because there are permitted development rights for such installations at domestic properties and restricting their use in this way is considered unreasonable. Environmental Health note the site may increase vehicle trips through Air Quality Management Area 1 at New Street Selby and that no air quality assessment is provided. It notes there is a lack of proportionate mitigation in the application such as electric vehicle charging provision. Therefore, it recommends an AQMA mitigation condition. However, the Building Regulations now require dwellings to have EV charging points. Furthermore, the proposal secures contributions towards bus service improvements and cycle infrastructure. All of which will mitigate the impact on air quality thus making the condition unnecessary.

10.104. Noise and air pollution matters are acceptable subject to such conditions.

10.105. Subject to the above and suitable mitigation through reserved matters approval and planning conditions, it is considered that the proposal would not breach Convention rights in the Human Rights Act 1998 in particular the right to health and the right to private and family life.

Developer Contributions

10.106. Local Plan Policy ENV1 requires account is taken of the capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure.

10.107. Policy CS6 states “The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development”.

10.108. Policy SP12 requires where infrastructure and community facilities are to be implemented in connection with new development, it should be in place or provided in phase with development and scheme viability. They should be provided on site, or if justifiable they can be provided off site or a financial contribution sought. Opportunities to protect, enhance and better join up existing Green Infrastructure, as well as creating new Green Infrastructure will be strongly encouraged, in addition to

the incorporation of other measures to mitigate or minimise the consequences of development. This will be secured through conditions or planning obligations.

10.109. The Developer Contributions SPD provides further guidance regarding contributions towards waste and recycling facilities; education facilities; and primary health care facilities amongst others.

10.110. NPPF paragraph 34 requires plans to set out the contributions expected from development. Paragraph 100 confirms “It is important that a sufficient choice of early years, school and post-16 places are available to meet the needs of existing and new communities.” Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requires planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

10.111. These development plan policies are consistent with the NPPF and are given significant weight.

10.112. NYC Children and Young People's Service forecast sufficient capacity to meet demand from the development at Thorpe Willoughby Community Primary School. It seeks £373,473.10 (£3,395.21 per dwelling with two or more bedrooms) towards facilities at Selby High School and or another secondary school serving the locality of the development. It seeks £83,556 (£759.60 per dwelling with two or more bedrooms) towards provision at the new Selby Special School or another school with SEND provision serving the locality of the development. It seeks £28,485 (£258.95 per dwelling with two or more bedrooms) towards early years provision serving the locality of the development.

10.113. NHS Humber and North Yorkshire Integrated Care Board confirms the existing GP practice, Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch, does not have capacity to accommodate any additional growth resulting from the proposed development. A contribution of £129,662 based on 110 dwellings (£1,178.74 per dwelling) is requested. The S106 contribution secured from this development would fund improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises at Tadcaster and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch or providing additional resource for a new build health development.

10.114. The Developer Contributions SPD requires a S106 agreement requiring the developer to pay for 4 x 240 litre wheeled bins at a price of £65 per dwelling.

10.115. These contributions are justified and CIL regulation compliant and would need to be secured by s106 with appropriate triggers for payment.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. The proposal is contrary to Policy SP2 because it involves major residential development in the countryside. Policy SP5 is out of date because the housing need figure it contains is not calculated based on the required standard method. Development plan policies can still be given weight based on their consistency with the NPPF. SP2 is inconsistent with NPPF paragraph 61 which seeks to significantly boost the supply of housing and aims to meet an areas identified housing need. Continued strict application of Policy SP2, which prevents market housing outside development limits in the countryside such as this, would not allow the LPA to meet the identified local housing needs. Furthermore, the weight afforded to conflict with Core Strategy Policy SP2 is diminished as it does not include the more nuanced approach to the consideration of development that is found in the NPPF. Thus, the policy is inconsistent with the NPPF and should be given limited weight.

11.2. However, the Local Planning Authority cannot demonstrate a five year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in NPPF paragraph 11. Permission should be granted unless the proposal fails to satisfy the tests in NPPF paragraph 11d. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more nuanced as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.3. Adverse impacts include limited visual harm from outside of the site and limited harm to the character and setting of the village; and conflict with the development plan.

11.4. Neutral matters include the lack of conflict with mineral policies; the lack of conflict with policies seeking to protect best and most versatile agricultural land and steering development to areas of least agricultural quality; the flood risk sequential test is passed, the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species following mitigation or designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable; and education, healthcare and bin contributions are secured to ensure no detriment is caused.

11.5. Benefits include the site being in a reasonably sustainable location that will be enhanced; matters for determination are well designed; the proposal makes a significant contribution to needed market and affordable housing (great weight it given to this consideration); a housing mix is secured that will deliver a mixed and balance community with provision for those with mobility problems and those that want to self or custom build their own home; the scheme will provide contributions to enhance bus services and cycle facilities which benefits existing and future residents; 10%

biodiversity net gain and ecological enhancements are secured; provision of open space and play areas that benefits existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

11.6. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and completion of a s106 agreement.

12.0. RECOMMENDATION

12.1 It is recommended that planning permission be granted subject to prior agreement of a section 106 agreement securing the matters listed below and the conditions listed below:

S106:

- Off site land to enable 10% biodiversity net gain to be achieved.
- 10% of the total number of dwellings are to be affordable housing. Of these 25% can be First Homes. If the developer is unable to dispose of the FH units a legal clause will require other opportunities to be considered before they are disposed of on the open market. These are: An option for the Council to buy or nominate a purchaser. This is for the Council or said purchaser to utilise the unit as another form of affordable tenure, be that intermediate or rental; or the payment of an additional FH Charge at 30% of the market value of the property to the Council. This allows the property to be sold on the open market and the sum (30%) ring-fenced for the delivery of affordable housing in the locality by the Council. The overall split shall be 25% First Homes, 65% affordable rent and 10% shared ownership.
- 3% of the total number of plots to be self or custom build dwellings.
- Implementation, ownership and maintenance of play areas and all recreational open space.
- £1266 per dwelling towards bus service enhancements in proximity to the site to improve the offer to residents, including Sunday and evening services.
- £1350 per dwelling is requested for cycle infrastructure improvements in proximity to the site.
- £50,000 to change the traffic light system at the Barff Lane/A19 junction.
- £2,500 towards travel plan monitoring.
- £373,473.10 (£3,395.21 per dwelling with two or more bedrooms) towards facilities at Selby High School and or another secondary school serving the locality of the development.
- £83,556 (£759.60 per dwelling with two or more bedrooms) towards provision at the new Selby Special School or another school with SEND provision serving the locality of the development.
- £28,485 (£258.95 per dwelling with two or more bedrooms) towards early years provision serving the locality of the development.
- £129,662 (£1,178.74 per dwelling) for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises at Tadcaster

and Rural Selby PCN: South Milford Surgery – Thorpe Willoughby Branch or providing additional resource for a new build health development.

- 4 x 240 litre wheeled bins at a price of £65 per dwelling.

Conditions:

1. Details of access (within the site), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

3. Unless otherwise amended under the conditions below, the development shall be in accordance with drawing 2444/0010 Rev A Location Plan and the access details shown on drawing 2444/002 Rev E Indicative Layout.

Reason: For the sake of clarity and in the interests of proper planning.

4. No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:
a) The points of access to be used.
b) The area for loading/unloading plant and materials.
c) The area for storing plant and materials.
d) Any security hoarding around or within the site.
e) Wheel washing facilities.
f) Measures for controlling the emissions of dust.
g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.
h) The positioning of any gates to the site.
i) External lighting.
j) The hours of working and deliveries.
k) An assessment of potential construction impacts upon the ground water source protection zone and mitigation measures.

The development shall then be implemented in accordance with the approved details and timetable.

Reason: In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment in pursuance of Policy ENV1 of the Selby District Local Plan.

5. If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure the orderly delivery of development in pursuance of Policy ENV1 of the Selby District Local Plan.

6. The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the Local Planning Authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall be carried out in accordance with the approved details.

Reason: To ensure a mixed and balanced community is created in pursuance of Policy SP8 of the Core Strategy and the Housing and Economic Development Needs Assessment (HEDNA) (October 2020).

7. Prior to any part of the development being brought into use, a scheme detailing double yellow line extents to manage parking on Field Lane to either side of the approved western site access, shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the approved double yellow line scheme has been completed.

Reason: In the interests of highways safety and to achieve a satisfactory and safe layout in accordance with Policy ENV1 of the Selby District Local Plan.

8. Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

Reason: To secure appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in pursuance of Policy ENV1 of the Selby District Local Plan.

9. Accompanying the Reserved Matters, engineering details of the western pedestrian access from the site to Field Lane along with dropped kerbs to allow access to the north side of Field Lane; and the pedestrian access from the site to the public right of way to the east, both as indicated on approved plan 2444/002 Rev E

Indicative Layout, along with a timetable for the implementation of those details and measures and a scheme for their intended management shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be installed in accordance with the approved timetable and these accesses shall thereafter be retained and managed in accordance with the approved management scheme.

Reason: To secure a permeable development with appropriate footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all users in pursuance of Policy ENV1 of the Selby District Local Plan.

10. Notwithstanding the submitted information, prior to the first use of the vehicular accesses to the site off Field Lane, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.

Reason: In the interests of highway safety in pursuance of Policy T2 of the Selby District Local Plan.

11. No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.

Reason: To secure a development with appropriate roads and footways constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all users in pursuance of Policy ENV1 of the Selby District Local Plan.

12. Prior to the first occupation of any dwelling hereby permitted, the off-site highway works detailed on approved plan 2444/002 Rev E Indicative Layout shall have been completed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To secure a development with appropriate roads, footways and cycleways constructed to an adoptable standard and to encourage sustainable transport options in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

13. Prior to the first occupation of any dwelling hereby permitted, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include: -

- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
- a programme for the delivery of any proposed physical works;
- effective measures for the on-going monitoring and review of the travel plan;
- a commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;

- effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan.

Reason: To establish measures to encourage more sustainable non-car modes of transport in pursuance of Policy ENV1 of the Selby District Local Plan and Core Strategy Policy SP15.

14. With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details that prevent environmental pollution in pursuance of Policy SP18 of the Core Strategy.

15. With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development in accordance with SUDS principles shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

Reason: To secure appropriate drainage details in pursuance of Policy SP15 of the Core Strategy.

16. With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination in pursuance of Policy ENV2 of the Selby District Local Plan.

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

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

18. With the submission of Reserved Matters, a Biodiversity Mitigation and enhancement Strategy (BMES), including construction phase matters, shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, and shall additionally include: a) an updated Biodiversity Net Gain Assessment showing 10% gain; b) a 30 year management and monitoring plan; c) implementation timetable and d) sensitive lighting scheme. The development shall be carried out and thereafter managed in accordance with the approved BMES.

Reason: In order to prevent harm to protected species and ensure net gain for biodiversity in pursuance of Policy SP18 of the Core Strategy.

19. With or before the submission of Reserved Matters, a written scheme for protecting the proposed noise sensitive development from noise shall be 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 55 dB LAeq (16 hours) 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 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. Construction work shall not begin until a written scheme for protecting the internal environment of the dwellings from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the building envelope of each plot is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved shall 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 LAmax 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 of prospective residents and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE), Policy SP19 of the Core Strategy and Policy ENV2 of the Selby District Local Plan.

20. Accompanying the Reserved Matters, a detailed Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, including a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The

development shall then be carried out in accordance with the approved AIA, TPP and AMS.

Reason: To secure incorporation of existing trees into the development in pursuance of Policy SP19 of the Selby District Local Plan.

21. The reserved matters application(s) shall include details of existing and proposed ground levels across the site and related finished floor levels of dwellings for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To prevent dwellings being subject to surface water flooding in localised depressions in ground levels in pursuance of Policy SP15 of the Core Strategy.

22. The landscaping and layout reserved matters application(s) shall include details of a landscaping buffer adjacent to the eastern boundary of the application site and management and maintenance details, for approval in writing by the Local Planning Authority. The landscaping shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted and shall thereafter be managed and maintained in accordance with the approved details. Any element of the landscaping buffer that is removed, dies, is seriously damaged or diseased within 10 years of planting shall be replaced with a similar species within the next available planting season.

Reason: In order to further filter and soften views of the proposal from the Locally Important Landscape Area, Brayton Barff and the public right of way in pursuance of Policies SP18 and SP19 of the Core Strategy.

23. The reserved matters application(s) shall provide 60sqm of on-site public open space per dwelling, and design details of a local area for play (LAP) and a local equipped area for play (LEAP).

Reason: To secure public open space and play facilities in pursuance with Policy RT2 of the Selby District Local Plan.

Target Determination Date: 2/5/2025

Case Officer: Martin Evans

Appendix A – Appeal Decision APP/N2739/W/17/3181460 Thorpe Willoughby
Appendix B – Indicative Layout drawing number 2444 / 002 REV E.
Appendix C - Appeal decision APP/U2750/W/24/3347885 Hambleton
Appendix D – Appeal decision APP/U2750/W/24/3347833 Carlton
Appendix E - Appeal decision APP/U2750/W/23/3327616 Brayton
Appendix F – Field Lane Location Plan

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The Planning Inspectorate

Appeal Decision

Hearing Held on 21 and 22 February 2018

Site visit made on 22 February 2018

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 March 2018

Appeal Ref: APP/N2739/W/17/3181460
Land at Field Lane, Thorpe Willoughby, YO8 9 FL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Sherwood Brothers Ltd against the decision of Selby District Council.
- The application Ref 2016/1345/OUTM, dated 11 November 2016, was refused by notice dated 14 July 2017.
- The development proposed is outline residential development with means of access.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The first reason for refusal, concerning a risk of harm to public water supplies provided by the Triassic Sherwood Sandstone Aquifer, was subsequently withdrawn and no evidence was presented on this at the Hearing. An application for costs in relation to the first reason, included in the appellant's Statement of Case, was withdrawn at the Hearing.

3. The application sought approval for means of access with all other detailed matters reserved. The Transport Assessment (TA) assessed the proposal on the assumption that there would be two points of access from Field Lane but no separate drawing showing the details of these accesses was submitted.

4. The Indicative Layout drawing shows two main access points but also includes a number of direct accesses from Field Lane to individual dwellings which were not assessed in the TA. The appellants accepted that this gives rise to some confusion and withdrew their request that means of access be approved at this stage. I have, accordingly, considered the appeal on the basis that all detailed matters are reserved.

5. At the time of its decision on the application the Council was unable to demonstrate a 5 year forward Housing Land Supply (HLS) as required by paragraph 47 of the National Planning Policy Framework (Framework). Following the preparation of a new Strategic Housing Land Availability Assessment (SHLAA) in July 2017 and a HLS update, with a base date of 30 September 2017, the Council considers that it can now demonstrate a supply of 6.2 years. The existence of a 5 year HLS has subsequently been accepted by

an Inspector in an appeal decision concerning a proposal for 25 dwellings at West Farm in Ulleskelf[1], issued on 14 February 2018. The findings of that Inspector (Inspector Gray) were discussed at the Hearing.

6. In his decisions on two further housing appeals in Selby District, both issued on the 26 February 2018, Inspector Normington also accepted that the Council has a deliverable 5 year HLS. These appeals concern an outline application at Church Fenton[2] and an outline proposal for 57 dwellings in North Duffield.[3] The parties were given an opportunity to comment on what bearing, if any, those decisions have on the matters before me. I have taken account of their comments in my determination of the appeal.

7. Following the close of the Hearing the Council sought to submit additional information on two of the sites within its claimed 5 year HLS including copies of the Section 106 Agreements. One of these had been submitted at the Hearing and I agree with the appellants that no further information had been requested when the Hearing was closed. I have not taken that late information into account in reaching my decision.

8. In view of the recent appeal decisions and the additional information received after the submission of the written statements, it is appropriate to deal with the 5 year HLS as a main issue.

Main Issues

9. The main issues in the appeal are:

   (a) Whether the Council is able to demonstrate a 5 year forward Housing Land Supply;

   (b) Whether the site is an appropriate location for the development proposed having regard to relevant planning policies; and

   (c) The effect on the character and appearance of Thorpe Willoughby and on the setting of Brayton Barff having regard to its inclusion within a Locally Important Landscape Area.

Reasons

Housing Land Supply

10. The decisions in the Ulleskelf, Church Fenton and North Duffield appeals are not binding on me but there is a need for consistency between decisions made on appeals in the same local planning authority area which raise similar issues. They are, therefore, material and provide a useful starting point for my assessment of whether or not a 5 year HLS exists.

11. Policy SP5 of the Selby District Core Strategy Local Plan (CS), adopted in October 2013, identifies the objectively assessed need for new housing in the District to be for a minimum of 7,200 dwellings over period 2011 to 2027. This equates to an average requirement of 450 dwellings per annum (dpa) which the policy states is to be met by commitments (sites with planning permission at the CS base date of 2011) and new allocations in the proposed Site

[1] APP/N2739/W/17/3173108
[2] APP/N2739/W/17/3175463
[3] APP/N2739/W/17/3183958

Allocations Plan (SAP). Allowing for commitments as at 2011 (minus a 10% allowance for non-delivery), Policy SP5 states that sufficient land will be allocated for 5,340 new dwellings.

12. In the Hodgson's Gate appeal[4] the Inspector found that, although there is no policy basis for excluding them, the inclusion of windfall sites in the 5 year HLS should be treated with caution. This was accepted by Inspector Gray who concluded that the windfall component in the September 2017 HLS does reflect an appropriate level of caution. I agree with that conclusion.

13. CS Paragraph 5.9 states that the Council made no allowance for future contributions from windfalls in calculating the number of dwellings to be provided through new allocations and that, over the life of the plan, windfalls are likely to add to the total delivery of homes in excess of the planned for target. Paragraph 5.38 indicates that this over delivery was expected to occur from about 2016 but paragraph 5.44 anticipated that the SAP would be adopted by 2015. That has not happened and I was advised that the SAP is not likely to be adopted until the end of 2019. The slippage in the preparation of the SAP means that the Council will be reliant on windfall contributions for longer than was expected when the CS was adopted. However, the continued inclusion of windfalls in the 5 year HLS is not inconsistent with the CS, as explained in Appendix C to the plan.

14. Paragraph B3 of that document states the intention that the SAP should allocate sufficient land to meet at least the net requirement (based on the 450 dpa figure) once existing planning permissions identified in the 5 year HLS at that time (my emphasis) have been taken into account. Hence, although not included in the supply calculation in Policy SP5, account is to be taken both of completions on windfall sites and windfall sites with permission at that base date ('known' windfalls) in determining the level of new allocations required in the SAP in order to meet the residual housing requirement (paragraph B2). Permissions granted on unallocated sites after that date ('unknown' windfalls) would then be counted as additional contributions on top of the 450 dpa target.

15. Given that expectation, I see no objection to the inclusion of windfalls in the 5 year HLS at this stage of the plan process. The lack of a 5 year HLS is likely to have resulted in an increased number of completions on windfall sites in recent years. However, the contribution of 270 units in the current 5 year HLS is substantially less than in previous assessments and is a modest estimate compared with the annual average windfall completions in the past 5 years. That contribution represents an appropriately cautious approach and I see no reason for any adjustments to be made to the housing requirement or the 5 year HLS in respect of windfalls.

16. No evidence was submitted to show that a 10% non-implementation rate is any more appropriate than the 8% rate used the September 2017 HLS. The Council's figure has been informed by assessing slippage in the delivery of two large sites with planning permission, an updated SHLAA and discussions with landowners and developers. I have no reason to conclude that this is an unreasonable estimate of the likely level of non-implementation.

17. Over the ten year period from 2007/08 to 2016/17 the Council failed to meet its dpa target in 7 years and exceeded it in the other 3. The target has been

[4] APP/N2739/W/16/3144900

exceeded in the last 2 completed years and evidence of completions in the sixth months to 30 September 2017 suggests that it will be met in the current year. This performance does not, in my view, equate to a record of persistent under-delivery and I agree with my colleagues that the use of a 5% buffer is consistent with paragraph 47 of the Framework.

18. Footnote 11 to the Framework states that, for a site to be deliverable, it should be available now, offer a suitable location for development now, and be available with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Further clarification is provided in the Court of Appeal judgment in the St Modwen case[5]. This held that each of these considerations goes to a site's capability of being delivered within five years; not to the certainty or probability that it will be. Sites may be included if there is no greater than a realistic prospect of housing being delivered within the five year period.

19. Inspector Normington deducted a total of 21 dwellings due to corrections and these were also identified in Table 3 of the Council's Response Statement. Both he and Inspector Gray found that Camblesforth-12 should be deleted due to the absence of an extant listed building consent. I agree with those findings.

20. The appellants do not challenge the Barlby-5 site and I agree that this should be included. In relation to N Duffield-7 and Cawood-11, I agree with Inspector Gray that the applications to amend S106 agreements in respect of the level of Affordable Housing (AH) on the sites indicate an ongoing interest in their development. No additional information was submitted in respect of N Duffield-7 and I find no reason why it should be excluded.

21. I was provided with a copy of a resolution to dispose of Council owned land needed for access to Cawood-11 and of an email, dated 18 February 2018, confirming that terms have been agreed and contracts for that disposal have been drafted. In light of the £240,000 estimated land value given to the Executive meeting in May 2017 this purchase would represent a substantial investment by the site owner. This does not support the viability concerns raised by the appellants. I find that Cawood-11 should be included.

22. There is strong evidence that a new planning application for a revised and more viable scheme on the Selby-54 site is being prepared. The Canal and Rivers Trust's concerns about the proposed footbridge appear to have been resolved and agreement has been reached for the purchase of land needed for its construction. I find that this site should be included in the 5 year HLS. In the absence of new information in relation to the Osgodby-6 site I adopt Inspector Gray's finding that 7 of the 14 units should be included in the 5 year HLS.

23. Inspector Gray deleted the Eggborough-3 site as no planning permission is in place and because of concerns about a potential ransom situation in relation to the site access. Terms have now been agreed between the owners of the two parts of the site and transport consultants have been appointed to progress proposals for access from Lower Eggborough Road. The main ownership extends to that road and, as the farmhouse and outbuildings on that frontage are in the same ownership, these do not appear to represent a major

[5] St Modwen Developments Limited v SSCLG & East Riding of Yorkshire Council & Save Our Ferriby Action Group [2017] EWCA Civ 1643

impediment to the site's development. The agent's email of 21 February 2018 confirms that the development is funded and anticipates the full 100 dwellings being built by 2021/22. The Council's assumed contribution of 75 units is, therefore, reasonable and should be included in the five year supply.

24. No further information has been provided on Barlby-10 and I adopt Inspector Gray's conclusion that this should be deleted due to viability concerns and an apparent dispute about the level of AH provision on the site. Although part of the larger site allocated in the 2005 Selby District Local Plan (LP) is to be retained as open space, Camblesforth-7 adjoins land that has been granted permission for residential development. The owner is willing to make the land available and there is no evidence that it is unlikely to come forward for development. The site should be included.

25. CS Policy SP9 states that the Council will seek AH provision up to a maximum of 40% and that the actual level is a matter for negotiation at the time of a planning application. The policy provides scope for the level of AH to be renegotiated at Reserved Matters stage and the Council advises that this has been done on a number of housing sites. The S106 agreement attached to the Osgodby-4 permission requires 40% AH provision and this appears to have been the Council's standard approach. However, developers can seek to vary those agreements if appropriate viability evidence is provided. If, as the appellants suggest, the Council's surveyor has indicated that these sites would be viable only with a reduced level of AH, there would appear to be scope for agreement on these matters. I see no reason to exclude either of the Osgodby-4 or Whitley-14 sites from the identified supply.

26. The agent for the Sher-9 site has suggested a possible disposal to developers of the adjacent site, with the two sites being taken forward as one larger scheme over a number of years. However, the Council advises that Sher-9 site could be developed in tandem with the adjacent land and the agent's letter confirms that the exact course of action to be taken is unknown. Development of the site might possibly be delayed for market reasons but this does not mean that there is no realistic prospect of the site coming forward in the 5 year timescale. I concur with Inspector Normington that Sher-9 should be included in the supply.

27. The appellants' concerns about land ownership issues constraining the access needed to the Brayton-20 site are, in my view, misplaced as the County Council has confirmed that Evergreen Way is an adopted highway. The Land Registry plans indicate that the title of some adjacent properties extends across the road but I have no evidence that these show anything more than a legal interest in the subsoil under the public highway. Such interests would not be an impediment to securing access to the site from Evergreen Way and I see no other reason to exclude the site from the 5 year HLS.

28. In summary, I concur with the changes made by Inspector Gray except in relation to the Eggborough-3 site which I find should be included. This adds 75 dwellings to the supply as set out in Scenario 1 in Document SDC4 and results in a supply of 3,470 against a 5 year requirement of 2,814, allowing for a 5% buffer. Accordingly, I conclude that the Council can demonstrate a 5 year HLS as required by paragraph 47 and that the relevant policies for the supply of housing should be considered to be up-to-date.

Whether an appropriate location

29. The site lies on the edge of the built area of Thorpe Willoughby within walking distance of local shops and other facilities and services. Some objectors have expressed concerns about the future of the parade of shops on Field Lane. A Certificate of Lawfulness of Proposed Use or Development, confirming that an earlier planning permission for the site's redevelopment could still be implemented, was issued in 2014 but no works appear to have been undertaken since then. The small convenience store has recently closed but I saw no evidence to suggest the likely closure of the pharmacy and hair salon.

30. Direct bus services to Leeds have been withdrawn but the bus stops on Field Lane are used by regular services providing access to the wide range of facilities, services and employment opportunities in Selby, and to Selby bus and rail stations. The proposal would, therefore, provide for access to shops and other facilities by sustainable means.

31. The appellants refer to the Hodgson's Gate Inspector's conclusions to support their assertion that the development limits shown on the Policies Map are out-of-date. However, at the time that decision was made the Council could not demonstrate a 5 year HLS and paragraph 73 confirms the Inspector's finding that policies setting development limits are relevant policies for the supply of housing. The comment in paragraph 74 concerns the weight to be given to the conflict with the development plan rather than whether or not the development limits should be regarded as being out-of-date.

32. The statement on CS page 36 makes it clear that the development limits are to be used for the purposes of applying CS policies. In Gladman Developments v Daventry Council[6] the Court of Appeal held that significant weight should be given to the public interest in having plan-led decisions even if particular policies might be old. Daventry Council had previously granted permissions for housing development outside of defined development limits but the Court ruled that "*the fact that the Council is able to show that, with the current saved policies in place, it has the requisite five year supply... tends positively to indicate that the current policies are not "broken" … since they can be applied without jeopardising the five year housing supply objective*" (paragraph 44). The same circumstances apply in the current appeal and I see no reason why full weight should not be given to the development limits and Policy SP2.

33. Although immediately adjoining the existing built area of Thorpe Willoughby the site lies outside the development limits and is within the open countryside. The proposal does not fall within any of the 'exceptions' set out in Policy SP2(c) and conflicts with the policy.

34. The CS minimum target of 2,000 new dwellings across the 18 Designated Service Villages (DSVs) as a whole has already been exceeded by more than 25%, with 2,663 homes having been completed or with planning permission. Policy SP5 does not set maxima for the DSVs or for housing provision in the District as a whole. However, as this position has been reached within the first 6 years of a 16 year plan period, the release of new large housing sites in those DSVs which are already experiencing considerable growth would cause significant harm to the spatial strategy that underpins the CS.

[6] Gladman Developments Limited V Daventry District Council & SSCLG [2016] EWCA Civ 1146

35. The Council's Growth Options Report, identifying possible housing numbers in each of the DSVs based on 3 different growth options, was published for consultation in June 2015. The Thorpe Willoughby options indicate growth of between 61 and 83 new dwellings. With some 486 dwellings completed or having been granted planning permission since the start of the plan period, those indicative levels of growth are likely to be exceeded by a significant degree. If 108 dwellings were to be developed on the appeal site the total number of new dwellings in the village would increase to 594. This would be nearly 7 times the upper level of growth indicated in the Growth Options Report and would account for more than 25% of the minimum 2,000 additional dwellings envisaged in the 18 DSVs as a whole.

36. Notwithstanding its proximity to Selby and the potential for development in Thorpe Willoughby to complement growth in that main town, an additional 594 dwellings would be a disproportionate share of the overall growth envisaged in the DSVs. When compared to the existing size of the settlement, which the officer report identifies as having comprised some 1,200 dwellings at the 2011 census (within Thorpe Willoughby Parish) this would also represent a disproportionate expansion of the village. There is no substantive evidence that this would result in unacceptable pressure on local infrastructure and services. However, such expansion cannot reasonably be considered to represent the limited further growth that CS paragraph 4.27 anticipates even in those DSVs which have a good range of services. Neither would it represent an appropriate scale of development as envisaged in paragraph 4.28.

37. As it forms part of the evidence base for the emerging SAP, only limited weight can be given to the Growth Options Report. However, against the background of an HLS in excess of the minimum 5 year requirement, the release of the appeal site for the scale of development proposed would seriously undermine the spatial strategy of the development plan. For this reason I find that the proposal would conflict with CS Policy SP2 and SP5. The Council has confirmed that Policy SP4 does not apply to proposals on sites outside of development limits and I find no conflict with that policy.

Character and appearance

38. Following the resolution to refuse permission, Arup gave additional advice to officers and provided inputs into the third reason for refusal and the Council's Statement of Case. This was a reasonable course of action for officers to satisfy themselves that Reason 3 could be substantiated on appeal. Both parties presented expert evidence on the potential landscape and visual effects at the Hearing. This evidence and my observations on the site visit provide all the information needed to inform my conclusions on these matters.

39. The three fields comprising the appeal site are of limited landscape value and are screened by almost continuous boundary hedging along the Field Lane frontage and the extensive woodland planting between the site and the A63 bypass. Short sections of the boundary hedge would need to be removed to facilitate access to the site but there would be scope for some replanting behind the requisite visibility splays. The development would be contained by existing boundary treatments and additional landscaping within the site layout and would not be visually prominent from outside of the site.

40. The site lies within Sector A of the Thorpe Willoughby Landscape Character Area (LCA) which is defined in the 2011 Landscape Appraisal as an area of low

sensitivity to development. Given its current use and appearance I do not accept that the site does not function as open countryside. However, the development would visually be contained by the dense planting along the boundary with the A63. The harm to the character and setting of the village would not be significant and the proposal would have a very limited effect on this part of the LCA.

41. Brayton Barff is a valued landscape feature and is well used as a recreational resource. The hill is the principal feature within the slightly more extensive Locally Important Landscape Area (LILA). The Council has previously granted planning permission for holiday cabins within the LILA but the development of a small number of log cabins in a woodland setting is not comparable to the appeal proposal in terms of its likely landscape and visual effects.

42. No direct harm to the character of the Barff and LILA is alleged and the Council's concerns relate to the potential effect on the setting of the Barff. The open fields to the east of the appeal site provide for a substantial landscape buffer between the site and the Barff and there is very limited intervisibility between the two. This lack of intervisibility is consistent with the absence of any reference to the Barff in the Landscape Appraisal's assessment of the character and importance of Sector A of the LCA.

43. Very limited views of the site are available from the footpath around the lower slopes of the Barff and, where these do exist, they are heavily filtered by intervening trees and hedges even during winter months. The gable ends to a few of the houses might appear in some of those views but they would be seen at some distance and against the background of the existing built edge of the village. Appropriate mitigation could be achieved by additional planting along the eastern boundary of the site. Such planting would also soften views of the houses from the public footpath at the eastern edge of the site and could be used to reduce any increased sense of enclosure to that path. Users of the footpath would experience some change in views but I do not consider that this would amount to material harm.

44. Although the Barff is visible from Field Lane only the upper parts of the wooded hill are seen above the roadside hedge. Other than through the small number of field gates, the fields comprising the appeal site are not seen in these views and do not form part of the setting of the Barff as experienced from the road or pavement. Residents of properties on Field Lane may have a clearer view from upper floor windows but, even in those views, the site is likely to form only a limited part of the foreground to the Barff.

45. Accordingly, I find that the appeal site makes no meaningful contribution to the setting of Brayton Barff and that there would be no material harm either to that setting or to the character of the LILA. No conflict arises with CS Policy SP18 which seeks the protection of landscape character and of the setting or areas of acknowledge importance. The Council has referred to LP Policy ENV15 but, as that policy is concerned only with proposals on sites within a designated LILA, I do not consider that it is applicable to the appeal proposal.

Other Matters

46. The TA demonstrates that two points of access can be accommodated on Field Lane. I observed that the requisite visibility splays can be achieved for the two main accesses shown on the indicative layout and the Highways Officers advise

that these are acceptable in highway safety terms. I cannot comment as to the acceptability of different access locations or of direct access to individual dwellings. However, I find that a satisfactory means of access could be achieved to serve the level of development envisaged on the site.

47. Some objectors have concerns about the effect on the aquifer but Yorkshire Water's consultation response identifies that the main risk to water supplies would be at the construction stage. I have seen no evidence that the risk could not be mitigated by means of planning conditions or other regulatory controls.

48. The site is some distance from existing dwellings and there would be no material risk of harm to the living conditions of occupiers of nearby properties by reason of loss of privacy or outlook. The potential risks of noise and disturbance during the construction phase could be mitigated by means of a suitably worded Construction Management Plan.

Planning Obligations

49. The Section 106 Agreement includes obligations with regard to AH and open space and a payment to the Council for the provision of waste and recycling bins. These are necessary to ensure that the development is acceptable in planning terms and accords with the relevant planning policies. I consider the weight to be given to the AH provision in the conclusions set out below.

Conclusions

50. The proposal conflicts with the development plan by reason of the site's location in the open countryside and the serious harm to the Council's spatial strategy and its ability to deliver a plan-led approach to housing development. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise.

51. The proposal would help to boost the supply of housing but paragraph 47 of the Framework indicates that this should be achieved through a plan-led approach where a 5 year HLS exists. The additional market and AH would be a social benefit and economic benefits would flow from the construction investment and the potential expenditure by the future residents in local shops and services. However, in view of the level of new housing provision already achieved and committed in Thorpe Willoughby and the other DSVs, there is no urgent or pressing need to release a large greenfield site in this location.

52. Some environmental benefit could be achieved in terms of the potential to enhance biodiversity on the site but this would be offset by the harm to the locational strategy underpinning the CS. The proposal would not, therefore, fulfil the environmental dimension of sustainable development.

53. The potential benefits neither outweigh the harm that would be caused nor amount to material considerations that indicate a decision other than in accordance with the development plan. For these reasons, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Paul Singleton

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Megan Thomas	of Counsel	
Joe O'Sullivan BSc (Hons) PGDIP URP MRTPI		AAH Planning Consultants
John Flinn PGDip LA MA		Land Innovations
Steve Wilkinson		Land Innovations
Kevin Sherwood		Sherwood Brothers Ltd.

FOR THE COUNCIL

Jonathan Easton	of Counsel	
Ann Rawlinson BSc (Hons) MTp MRTPI		Principal Planning Officer
Richard Welch MPlan MRTPI		Principal Planning Officer
Tom Armour	Director	Arup
Emma Sharpe	Assistant Landscape Architect	Arup

INTERESTED PERSONS

Sylvia Parkinson	Local Resident
Anthony Hattersley	Local Resident
Trevor Rhodes	Local Resident
Raymond Stanley	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

Signed S106 Agreement

SDC1- Addendum Statement of Common Ground in relation to the West Farm, Ulleskelf appeal.

SDC2- Bundle of Council Minutes and Emails regarding housing sites included in the Council's claimed HLS.

SDC3- Email correspondence between the Council and Arup.

SDC4- Note setting out various HLS scenarios.

SDC5- 5 Year HLS Report Position at 30 September 2017.

SDC6- Appendix C to Selby Core Strategy Local Plan regarding Housing Delivery and Windfalls.

SDC7- S106 relating to the Osgodby-4 housing site.

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Planning Inspectorate

Appeal Decision

Hearing held on 27 November 2024

Site visits made on 26 & 28 November 2024

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/U2750/W/24/3347885
Land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Hallam Land Management Ltd, Messrs T & M Hey and Mrs D Hey against North Yorkshire Council.
- The application Ref is 2022/0665/OUTM.
- The development proposed is the development of up to 156 dwellings and associated landscaping and infrastructure works.

Decision

1. The appeal is allowed and planning permission is granted for the development of up to 156 dwellings and associated landscaping and infrastructure works at land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG in accordance with the terms of the application, Ref 2022/0665/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. As originally submitted the proposal was to be for *'circa 156 dwellings'*. However, the description was changed while the application was being considered to that given above, to confirm that 156 dwellings would be the maximum.

3. This is an outline scheme with all matters but access reserved for later consideration. I have therefore treated any details relating to landscaping, layout, scale and appearance as illustrative but informative. Moreover, at this stage the principal access to the site only is being considered. However, access within the site will be determined at a later stage and, as they are influenced by the scheme's internal layout, details of the pedestrian and emergency accesses to Mill Lane will be considered through conditions.

4. Government guidance and policy are found in the *National Planning Policy Framework* (the Framework), and the version dating from December 2023 was in place when the appeal submissions were prepared and the Hearing held. On 12 December 2024 a revised version of the Framework was issued, which superseded the one from 2023, and it is against this 2024 version that I have considered the appeal.

5. At the time of the Hearing the Council had an emerging local plan called the *Selby Local Plan* (the eLP), which it was proposing to take forward to

examination. However, following the publication of the revised Framework, the relevant Council Committees have resolved that work be halted on the eLP. In the light of this, it can be afforded no appreciable weight in the decision-making process, as there is now great uncertainty as to whether the policies and allocations it contains will ever be part of the adopted development plan.

Main Issues

6. The main issues in this case are

   a) whether the development is acceptable in principle;

   b) its effect on the supply of agricultural land;

   c) its effect on the character and appearance of the area and heritage matters;

   d) whether this is a sustainable location;

   e) the impact on highway safety;

   f) the delivery of affordable housing,

   and, if any harm would be caused by any or all of the above,

   g) whether material considerations indicate a decision otherwise than in accordance with the development plan.

7. Of issues a) to f) only the last was raised as a point of contention by North Yorkshire Council (the Council), with the remainder arising through submissions from the Parish Council and local residents.

Reasons

The principle of the development

8. The Development Limits of Hambleton are defined in the *Selby District Local Plan* (the Local Plan), which was adopted in 2005 and is still in force. They mean that almost all of the appeal site lies adjacent to but outside of those limits, with only the access and the illustrative site for one dwelling shown as being within them.

9. Policy SP2A in the *Selby District Core Strategy* (adopted in 2013)(the Core Strategy) outlines the principles on which the location of further development will be based. Sub-section (b) of this policy says limited amounts of residential development may be absorbed inside Designated Service Villages, of which Hambleton is one. As nearly all of the site though is not *'inside'* the village (as defined by the Development Limits) this provision is not applicable. Instead, Core Strategy Policy SP2A(c) addresses development in the countryside (outside of Development Limits), and says it shall be restricted to a number of specified types. None of these apply to this scheme, so it would not be in accordance with that policy.

10. Core Strategy Policy SP5 aims to deliver 1000 houses *'in'* the 18 Designated Service Villages. However, this delivery was to be directed by a Site Allocations document that never came forward. Assuming this policy is

seeking to direct housing within the Development Limits or onto allocated sites, again this scheme does not fall under its terms.

11. Accordingly, I conclude that by being substantially outside of the Development Limits this scheme would be in conflict with Core Strategy Policy SP2.

The effect on agricultural land

12. Core Strategy Policy SP18 seeks to steer development to areas of least agricultural quality. The Framework then says there should be recognition of the economic and other benefits of best and most versatile farmland, which it defines as farmland in grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

13. The site at the moment comprises 2 large arable fields, with a complex of farm buildings in its north-western corner and meadow to the north. While it is agreed the site is within grade 3 of the ALC, it has not been confirmed whether it is of grade 3a or grade 3b standard.

14. If it falls in grade 3b, the details submitted seem to imply there are few areas in the District that are of a lesser quality, and so there would be no conflict with either Core Strategy Policy SP18 or the Framework. However, if it is in grade 3a there could well be grade 3b land elsewhere in the District and so a conflict would exist with Core Strategy Policy SP18. Moreover, taking it out of agricultural production means it could well be contrary to the Framework.

15. Accordingly, in the absence of any confirmation of the precise grade of this agricultural land, I conclude it has not been shown there would not be a conflict with Core Strategy Policy SP18 or the Framework.

Character and appearance

16. Core Strategy Policies SP18 and SP19 seek development that would protect the natural and historic environment and have regard to local character, including the open countryside. Local Plan Policy ENV1 highlights the need to consider the development in the light of features important to the character of the area.

17. The 2 fields that form the bulk of the site sit side-by-side, separated by a hedge, and run northwards from the site's southern boundary with Mill Lane. The complex of agricultural buildings at their northern end stand in a yard with equipment and apparatus associated with such a use, and they range from being relatively old and brick-built, to being large modern utilitarian structures. There is also the meadow, separated from the fields by broken planting, while the area subject of the appeal is substantially bounded by hedging of varying quality. As such, the site itself has a rural appearance that reflects that of the fields to the south.

18. While clearly the landscape around Hambleton is treasured by village residents and others, it is not a *'valued'* one under the terms of the Framework. Furthermore, it is not currently an area of tranquillity. There is a Locally Important Landscape Area (a LILA) around Hambleton Hough to the south-east. In the eLP the intention was to expand that up to the south side of Mill Lane, across the road from the development, but even if that were to occur it still would not extend into the appeal site.

19. Building a housing estate on what is now open fields and ancillary land in the countryside would be changing the rural nature of the site itself, and would be expanding the built form of the village, taking it outside of its existing visual edge that runs along the site's west side. In this regard there would be some conflict with the policies cited above. I am aware though that in localised views from Mill Lane to the south or from Gateforth Lane to the east, the site, although clearly agricultural, is seen very much in the context of the modern housing to the west, and this reduces any sense of encroachment into the countryside.

20. The Development Limits of the village come up to Mill Lane on the west side of the site and nearly to the lane to its east, but in between those they appear to run into the settlement. As a result, an area of countryside, as defined by the Development Limits, extends well into Hambleton, and this area, which comprises mainly the appeal site but includes a smaller field as well, is substantially surrounded on 3 sides by built form. Furthermore, Mill Lane and Westcroft Lane form a strong boundary along the southern side of the village. Therefore, while the scheme would constitute an expansion of the settlement into what the development plan defines as the countryside round Hambleton, when seen in the context of the wider landscape it would not be perceived as an undue expansion, or as reducing any gap to a neighbouring village. Rather, in my judgement it would be a logical extension to the existing built form.

21. Hambleton Hough, a little to the south, is one of 2 pronounced hills (along with Brayton Barff) in this otherwise relatively flat landscape. There is public access to the summit and, from there, there are extensive and exhilarating views over the surroundings. In those, Hambleton forms part of the patchwork of settlements and agricultural land that can be seen. It is apparent in the foreground as a relatively linear village near to, but separate from, both Hambleton Hough and the designated LILA.

22. Although the scheme would bring the village slightly closer to this hill and the current extent of the LILA, it would still be clearly and distinctly separate from both of them. Increasing the LILA in the manner proposed in the eLP would mean that designation would be nearer to the site than at present, but this would not result in a material change in the contribution the village makes to the landscape when seen from Hambleton Hough. I am unaware of the reasons behind the extension of the LILA, but I consider any benefit it had concerning Hambleton Hough and its setting would not be harmed by the development before me. Indeed, whilst houses to the west of the site back onto Mill Lane with their rear elevations close to the road, opportunity exists for the proposal to be an outward-facing scheme, with houses set a minimum of 20m back from the carriageway edge to maintain a softer boundary on this side.

23. In the eLP it was proposed to allocate this site for housing, with an indicative capacity of 128 dwellings, some 28 less than the maximum now proposed. However, I have little to show how the figure of 128 units was established. I accept too that, while the road layout on the illustrative plan accompanying this submission before me allows views to Hambleton Hough, the housing is sited with a certain monotony. The precise layout though is to be considered formally at Reserved Matters stage, and on the information presented I have no basis to find 156 dwellings could not be suitably accommodated.

24. The scheme would necessitate the loss of many of the agricultural buildings now on site. In views from Mill Lane and from Hambleton Hough it is mainly the larger, modern utilitarian ones that are apparent. I consider these are not particularly attractive due to their scale, their materials, and their functional design. However, as buildings clearly associated with agriculture they are a visually accepted part of the countryside. They also illustrate the village's agricultural origins, although other buildings dotted throughout the village, often more prominently and with more heritage significance, do likewise. On balance I therefore consider their loss has a neutral effect in my assessment of this issue.

25. Turning to the effect on Chapel Street, at its northern end it has 2 arms that connect with the main road through the village (the A63), with some older agricultural/commercial buildings on the central triangular island and to the west. Travelling towards the appeal site it is then bounded by relatively simple houses and cottages of various designs that reflect the age and evolution of Hambleton, with the chapel and associated Sunday school opposite the proposed access and the older Garth House beyond. Moreover, the front boundaries of these properties tend to comprise walling, often with hedging above, though the height and style of the walls varies. Despite this variety, they nonetheless accord with the character of the buildings behind. On the east side, passing the appeal site, there is a long stone wall, again often with a hedge projecting above, that runs right round to Garth House though is punctured intermittently by various driveway openings. The length and uniformity of this wall brings a certain unity to the streetscape.

26. To the south of the intended site access and beyond Garth House, the character of Chapel Street changes. With the exception of isolated examples such as Mulberry Cottage, the road becomes dominated by modern suburban housing.

27. Overall, although not a conservation area, from Garth House northwards Chapel Street reflects the village's age, and its organic growth over the centuries as a small rural settlement.

28. The scheme proposes forming the principal access to the site through this long stone wall on the east side of the road. As part of these works, sections of the wall to either side of the access would be taken down and rebuilt a little further back from the carriageway in order to widen the pavement and allow sight splays, while the existing access further south would be infilled with a sympathetic length of walling. The existing planting now behind the wall where the access is to go would be removed to facilitate the road, while the illustrative plan shows one dwelling could be built there. Otherwise, the housing development would not be prominent from Chapel Street, as it would be set well back.

29. These works would inevitably involve some change in the appearance of the streetscape. However, if the existing entrance were to be closed up and the wall rebuilt sympathetically (matters that could be controlled by condition), this change need not be harmful, but would be in keeping with the evolving nature of the road.

30. The only designated heritage asset nearby is the Grade II listed Garth House. Dating from the early- to mid-18th Century, this is a 2-storey dwelling, which was probably a farmhouse originally, and has attractive detailing in its

brickwork and windows. Although subsequently extended, these alterations do not diminish the pleasing nature of its front elevation in particular, which contribute to its special architectural and historic interest. Accordingly, its significance is partly architectural, in the detailing and proportion it displays, and partly historic, as it reflects the agricultural past of the site.

31. From the north its frontage is visible for a length of Chapel Street, as it stands near to the outside of a bend, though in my opinion it only becomes a dominant element of the streetscape when approaching the Sunday School building. In these views though I accept it has a striking presence. However, to a certain extent works in its setting have already compromised its historic significance, as it now has new housing on Chapel Close and Rosewood Vale to one side and partly behind, while a new house sits between Garth House and the site's existing access. Furthermore, as stated above, having passed Garth House Chapel Street then has the character of a modern housing area. As such, its connection to agricultural land is now very much diminished.

32. The Framework says heritage assets are an irreplaceable resource. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset, including to its setting, requiring clear and convincing justification.

33. At the rear of Garth House, some of the old range of farm buildings on the appeal site that run along much of this dwelling's boundary would be restored and retained. This would maintain the enclosure that currently exists and minimise the introduction of the modern suburban elements of the development into the rear garden area of that listed building.

34. When looking from Chapel Street, the closest parts of the scheme to the frontage of Garth House would be the infilling of the existing access to the site, and the landscaping of the area behind. As stated above, the wall would also be demolished and rebuilt further from the carriageway to either side of the new access, while any house built to the north of the access could be set back. These works though would be a suitable distance from the listed building, and would be rebuilt in sympathetic detailing. Therefore, as Garth House now stands in what is, to a great extent, a suburban context, harm would not be caused to its significance.

35. In assessing this matter I am aware it was said Garth House would be positioned between 2 roads, namely Chapel Close/Rosewood Vale on one side, and the access to the appeal site on the other. However, given the distance to the proposal's entrance, noting the intervening dwelling, and taking account of the screening effects of the retained range of buildings, to my mind that is not how the property would be perceived.

36. I am not satisfied that a condition requiring archaeological investigation is justified on this site.

37. Accordingly, I conclude the works would not harm the significance of the listed building, or fail to have regard to the desirability of preserving its special architectural or historic interest. As such, in this regard it would not conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, or the Framework.

38. However, I also conclude that some harm to the character or appearance of the countryside would result from building on these fields, though this would be limited by the manner in which the site is generally surrounded on 3 sides by built form. Nonetheless, in this regard there would be some conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, and the Framework, though beyond this I have found no harm to the wider landscape.

Sustainability

39. The Framework says significant development should be focussed on locations that limit the need to travel and offer a genuine choice of transport modes. Priority should therefore be first given to pedestrian and cycle movements and second – so far as possible – to facilitating access to high quality public transport. Overall, when applying this Government guidance, to my mind it does not mean new houses should be limited to places where all the needs of their residents could be met entirely by a choice of transport modes other than by private motorised vehicles, as there would be few if any undeveloped sites with such a level of accessibility in the District. Rather, the guidance is qualified to a certain degree, and there is an acceptance of sites being developed even though future occupiers would be reliant, to some extent, on the private car. This is acknowledged by the Framework recognising that opportunities to maximise sustainable transport solutions will vary between rural and urban areas.

40. By identifying Hambleton as one of the District's Designated Service Villages, the supporting text to Core Strategy Policy SP2 says it has *'a good range of local services'* and so can accommodate further '*limited'* growth. Indeed, only the settlements of Selby, Sherburn in Elmet and Tadcaster are deemed hierarchically superior to the Designated Service Villages, although 3 of these Designated Service Villages are highlighted as '*particularly sustainable'.* I recognise that by being outside of the Development Limits it could be argued that the hierarchy in Core Strategy Policy SP2 is not applicable. However, the policy approach gives an indication of the relative service strength of Hambleton, while the accessibility to these services is not necessarily defined by a site's position relative to Development Limits. In these regards, the policy is therefore relevant.

41. This position is reflected in the eLP, which identified Hambleton as a Tier 1 village, again below only Selby, Sherburn in Elmet and Tadcaster. Whilst work on that plan is halting, it nonetheless implies that, in the Council's opinion at least, the relative status of the village has not changed.

42. The '*limited'* growth to which Core Strategy Policy SP2A(b) refers has no definition. Although local residents consider that, when taken with other recently approved development, the scheme is disproportionate in relation to the village, the Council, in interpreting its own policy, has not said it cannot be considered as *'limited'*. Given this, and having regard to the evidence before me, this is a view I share.

43. Hambleton has a convenience store, a primary school, 2 public houses, a village hall and places of worship. Despite it being outside of the Development Limits, from the appeal site these services are reasonably accessible on foot. They are not extensive though. My attention was drawn to no health provision in the village, education above primary school level is not available, the shop, although maybe offering day-to-day top-up goods, does not cater for more

extensive retail needs, the faith options are limited and there are few opportunities for employment or entertainment.

44. Inevitably, for these, residents would need to travel further afield to larger settlements around. Given the distances involved, the nature of the roads and the limited pavements, many residents would be unable to cycle or walk to them. For others it may be possible, but the speed of traffic, the poor lighting and the nature of the pavements would make them reluctant to embark on such journeys. Indeed, even if they did so on pleasant days or when their journey was not demanding, it is unlikely they would cycle or walk those routes in inclement weather, when dark, when having a tight timescale to meet or, for example, when wanting to do a large shopping trip. Overall, few if any would regularly make these trips on foot or on a bicycle.

45. Whilst there is a bus service, this is limited with, broadly speaking, a bus in each direction every 2 hours or so through the working day, and no mid/late evening or Sunday service. As such, it offers limited opportunity to overcome the village's deficiencies in relation to these matters.

46. Given the nature of the District though, precluding sizeable housing from a settlement with this level of service provision or even slightly greater, could well result in an undue focussing of housing onto Selby, Sherburn in Elmet and Tadcaster, which is something the development plan appears to seek to avoid through Core Strategy Policy SP2A. Although the Parish Council said that Hambleton had had *'more than its fair share'* of new housing, in the absence of a policy context to say otherwise it is not for me to assess the merits of a distribution across the District, but rather to consider whether this scheme would be acceptable on this village.

47. Moreover, the appellants have sought to upgrade the attractiveness of alternative transport modes through contributions to the bus service and the cycle way in the agreement under Section 106 of the Act (the S106 Agreement). The bus contributions would constitute about 40% of the sum necessary (at today's prices) to allow more services to run in the evenings and on Sundays over the next few years. Such improvements would increase the likelihood of public transport being used. I therefore consider the contributions to be reasonable and necessary, and so would comply with Regulation 122 in the *Community Infrastructure Levy Regulations 2010* (the Regulations).

48. A cycle contribution would be put towards improving cycle links between the village and Selby, by creating a dedicated, lit, cycleway. I was told this cycleway was still at a relatively early stage, as there was some detailed design work to do, and third party land to be obtained by compulsory purchase powers, but it was hoped to start construction in the next 3-4 years. Balanced against this, I recognise that such schemes take a long time to evolve and if its delivery was imminent it would probably be adequately funded already. I accept that it is most unlikely the cycleway would be in place before the first occupation of this development. I am satisfied though that the scheme is sufficiently advanced to mean that, even if there is some slippage in the timetable I have been given, there is a reasonable prospect the cycleway will be in place soon after, and so would be available for future residents to use in the years ahead. On balance, I therefore accept that the stated contributions would also accord with the Regulations.

49. The S106 Agreement delivers a Travel Plan with its monitoring as well. That again can only be an encouragement for future residents to embark on sustainable travel, and so, once more, accords with the Regulations.

50. Drawing all the above together, I find that Hambleton offers a basic range of facilities and services that would, to a greater or lesser extent, partially meet the day-to-day needs of the future residents, and would be reasonably considered as walkable from the scheme. Furthermore, *'further limited growth'* is accepted in this village, whilst the appellants are making contributions that would, in time, encourage using modes of transport other than the car that would be a benefit to the wider community. The scheme would nonetheless result in a reliance on private motorised transport to a degree as residents travelled further afield to access what was not provided locally. On balance though, given the policy context, what is offered in the village, and its relative status in relation to other settlements in the District, I conclude the site has not been shown to be deemed an unsustainable location, and in this regard the development would not conflict with Policy SP2 in the Core Strategy, or with Core Strategy Policies SP15 and SP19, which aim to facilitate sustainable access modes.

Highway safety

51. Chapel Street is relatively straight and wide at this point, and so, once the boundary wall has been realigned, visibility for drivers leaving the site would be satisfactory. I have no reason to consider that the introduction of this access would compromise the safety of children walking along Chapel Street as they are going to or coming from the school bus, as crossing estate roads such as this is not an inherently dangerous activity, and indeed is one they would quite probably have to do anyway elsewhere in their journey to or from their home.

52. When visiting the site I saw a number of cars parked at the kerbside in connection with a children's group at the chapel, and I understand such parking often occurs for people attending events and services there. The opportunity for this would be affected to some degree by the new access. However, it could occur elsewhere along the kerbside, and Chapel Street is not heavily trafficked. Consequently, I consider that, even with the additional flows associated with this scheme, any effects on the use of the road for parking would not be unacceptable. It was suggested that, through a condition, parking spaces for the chapel users could be secured on the site in front of the agricultural buildings the appellants are proposing to retain. I have no details of this though and am not satisfied that this would not fetter, to some degree, any future uses for those buildings. In any event, given the nature of Chapel Street and its capacity for kerbside parking, it is not something that I consider is necessary to make the scheme acceptable.

53. Through the conditions there would be opportunity to ensure the emergency access to Mill Lane had adequate visibility. Although the national speed limit applies to that road, given its character I consider it unlikely that much traffic would be travelling at or near 60mph.

54. A wider concern was raised by local residents about the congested and busy nature of the road network in general and the A63 in particular, and the additional pressures that would arise because of the scheme. I accept that the A63 is busy through the village, with roughly 1100-1200 vehicle movements

during peak times. This scheme would inevitably add to those, but I have no evidence to show the residual cumulative impacts on the road network would be severe.

55. More particularly though it was said that joining the A63 from Chapel Street, and especially turning right towards Selby, was difficult because of the heavy traffic. It was contended that, as a result, drivers would then use Mill Lane instead, and either go along Gateforth Lane or continue along Field Lane, with the latter lacking pavements and streetlights and so compromising the safety of pedestrians, cyclists and horse riders. However, I have no decisive evidence to demonstrate that the Chapel Street junction with the A63 was dangerous. I am also not persuaded that any displaced flows onto Mill Lane, Gateforth Lane, Field Lane or the other roads on this side of the A63 would be so great as to be harmful. I note that, although popular with walkers going to Hambleton Hough and maybe children and parents going to school, Mill Lane has a pavement. Whilst this may be narrowed by the hedge, that is a matter of maintenance and does not offer me a basis to find this pavement is unsafe. Moreover, I have no reason to consider Field Lane and the lanes beyond are used to a significant extent by pedestrians, cyclists or horse riders, or that this scheme would have a material effect on traffic passing along them. In any event those roads are typical of the countryside, and, irrespective of the proposal, all the various users have to take into account the presence of each other.

56. Accordingly I conclude the development would not adversely affect highway safety, and so would not conflict with Local Plan Policies T1 and T2, and the Framework, which all seek to protect highway safety and avoid severe cumulative impacts on the road network.

Affordable housing

57. Policy SP9 in the Core Strategy says

> *the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings. … The actual amount of affordable housing … to be provided is a matter for negotiation at the time of a planning application.*

This figure of 40% seems to have been based on an assessment that pre-dates the Core Strategy, and appears to be from around 2009.

58. However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (the Aspinall Verdi report) to inform Policy HG7 in the eLP, and this says it considers a greenfield delivery of 10% affordable housing to be viable in this area of Hambleton (what it calls a 'low value' area), though elsewhere in the District, in 'high value' areas, 20% could be secured. It was said that the discrepancy between Core Strategy Policy SP9 on the one hand and the Aspinall Verdi report on the other was because the latter took into account costs specific to the eLP. However, it has not been shown these differing costs have had a material effect on the figures in this case.

59. Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report

when compared to that informing the Core Strategy, I consider this report constitutes a material consideration to which I should attach significant weight in my assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks *'up to a maximum'* of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

60. The appellants have submitted a viability appraisal and, based on that and with roughly an 18% profit, they say a delivery of 10% affordable housing is viable. This appraisal was tested on behalf of the Council, and, while that testing agreed that 40% was unviable, it deemed 30% delivery was possible. At the Hearing it was confirmed that the reason for the discrepancies lay mainly in the assumed Gross Development Value (the GDV) and, to a lesser degree, in the stated abnormal costs[1].

61. As a starting point, such appraisals and testings, although professionally undertaken, nonetheless involve subjective judgements being made. They are clearly not an exact science, and merely because 2 professionals come to different views, it does not follow that either is necessarily wrong. Moreover, I am aware that the figure of 10% proposed by the appellants is in line with the findings of the relatively recent Aspinall Verdi report. Indeed, in the summaries in that report I saw no encouragement to use 10% as the point where negotiations for a higher figure begin, and indeed such an approach would remove any certainty or confidence from the process.

62. The Council also pointed out that, although the Aspinall Verdi report places the site in a 'low value' area, it was close to a 'high value' one, thereby implying regard should somehow be given to its proximity to the latter. Again though I saw nothing in the parts of that report before me to indicate that such a fluid approach should be applied near to the borders of these different areas. In any event, the 30% figure offered on behalf of the Council is appreciably in excess of what the Aspinall Verdi report advises for even the 'high value' areas.

63. Turning to the GDV, the appellants arrived at their figure by looking at sales prices of 2 or 3 years ago from a similar new estate in Hambleton, and then used recognised indexing to make them comparable to today's prices. The Council's testing, in contrast, has used up-to-date sales prices, albeit from other towns and villages in the area. This was partly because the Hambleton prices were not as recent, but also because it was said the gardens on the new estate in the village were smaller than now proposed, and the open space was not as accessible, and these factors would affect the relative house prices.

64. I am aware though that the other settlements used by the Council will inevitably have different 'push' and 'pull' factors for potential purchasers when compared to Hambleton. For example, they might be under the influences of other larger settlements, have better or worse access to the motorway network, offer a greater or smaller number of services, or have a housing stock of a different mix, with more or less newer housing. All these things

[1] The Council also said the appellants' assumption of 20% profit was too high. This was the assumption within the appellants' appraisal, but with that the appraisal showed the scheme not to be viable at 10% delivery. At the Hearing the appellants confirmed that reducing the profit to around 18% would mean viability could be achieved.

could influence the prices people were willing to pay for properties. Furthermore, although I have only illustrative details of the layout for the development before me, and little knowledge of the garden areas and open space provision for the new estate in the village, from what I could see I do not anticipate any material differences in these regards between the 2. To my mind I am therefore persuaded that, on balance, the appellant's preference for relying on Hambleton, albeit with necessary adjustments to price, is a more favourable one in this instance.

65. With regard to the abnormal expenses, although the site is broadly flat I noted the difference in land levels between the 2 fields that would need appropriate earth movements, and I also accept the appellants' comments concerning the need to dispose of the soil.

66. Overall, whilst I have noted the assumptions and approaches made and taken on behalf of the Council in testing the appellants' appraisal, they are not sufficient to show that, having regard to abnormal costs, economic viability and other requirements, I should not accept the appellants' assertion that only 10% affordable housing delivery on this site is justified.

67. The commitment to deliver this amount of affordable housing was included in the S106 Agreement. Given the policy context and my reasoning above, I consider this satisfies the requirements of the Regulations.

68. The Council raised the possibility of revisiting the affordable housing delivery levels as part of the reserved matters, when precise housing styles and sizes were known. Such an approach though means there was no need to have undertaken such work at this stage. Moreover, to my mind the delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward. As such, revisiting this issue is not something I have pursued.

69. Accordingly, I conclude that the delivery of 10% affordable housing has been supported having regard to abnormal costs, economic viability and other requirements, and so is in accordance with Policy SP9 in the Core Strategy.

Other matters

70. As well as the matters discussed above, in the S106 Agreement it is proposed to make education contributions to allow the village school to accommodate the scheme's children. Despite comments to the contrary from local residents, I have no firm reason to find this could not be achieved. Further education contributions are also provided to deliver facilities at secondary schools serving the development and also towards the Special Schools and early years provision. Moneys are to be given too for capital improvements at the local surgeries as well as to the Council to monitor the Travel Plans and First Homes provision, and to contribute to waste and recycling. Moreover, the S106 Agreement secures the open space and the delivery of self/custom-build housing.

71. Given the policy context and the evidence before me, I consider these comply with the Regulations.

Other material considerations and planning balance

72. I have therefore found harm would be caused by the scheme being outside the defined Development Limits, by its effect on the character and appearance of the area, as well as, possibly, by the loss of best and most versatile farmland. Each of these gives rise to development plan conflict. As stated above though, the weight afforded to the policy conflict concerning the scheme's effect on the character and appearance of the area is limited, as being substantially surrounded on 3 sides any sense of encroachment into the wider countryside would be restricted. In considering the policy conflict resulting from the possible loss of best and most versatile land, I am aware it concerns a relatively small area and so any adverse effects in this regard would not be great. Despite these comments though, I nonetheless accept a policy conflict exists for each of these 3 issues.

73. However, section 38(6) of the *Planning and Compulsory Purchase Act 2004* refers to a balance, saying development should be in accordance with the development plan unless material considerations indicate otherwise (my emphasis). Therefore, whilst the primacy of the development plan remains and its status is unaffected, clearly there is the possibility of instances arising where a scheme is allowed despite development plan conflict. To assess that requires a judgement by the decision-maker based on the relative weights they afford to material considerations.

74. The appellants have offered a number of material considerations that they consider weigh in favour of their scheme. First and foremost is the Framework's emphasis on significantly boosting the supply of houses, which is given without reference to the level of housing provision that a District may, in fact, be able to offer. Clearly this case would deliver an appreciable number of additional homes and so would positively assist in that regard.

75. Furthermore, reference was drawn to paragraph 11d) of the Framework. In relation to this scheme, this states that where the policies which are most important for determining the proposal are out-of-date (including situations where the local planning authority cannot demonstrate a necessary housing land supply) permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (paragraph 11d)(ii)).

76. Turning first to the most important policies, the Council accepted that Core Strategy Policy SP5 was out-of-date as the site allocations document on which it so heavily relied had never materialised, and this is a view with which I agree. Furthermore, the weight I afford to a conflict with Core Strategy Policy SP2A(c) is diminished as it does not include the more nuanced approach to the consideration of development that is found in the Framework.

77. Moving on to the housing land supply position, when the submissions were made, and indeed when the Hearing was held, the version of the Framework in place then said, because of the stage the eLP had reached, the Council needed to demonstrate it had a 4-year housing land supply. This the Council considered it could achieve, as it contended it had a housing land supply of some 4.9 years using the methodology in place at the time. Consequently, Framework paragraph 11d)(ii) was not then engaged. However, the 2024 version of the Framework rescinded the circumstance where only a 4-year supply was required, and so a 5-year housing land supply is currently needed.

Moreover, when assessed against the revised approach now found in Government policy and guidance, the Council accepts it has a shortfall in deliverable housing sites of some 2.4 years (with a supply of about 2.6 years). I consider this shortfall to be appreciable. As a result, Framework paragraph 11d)(ii) is engaged.

78. In the light of this shortfall the Council acknowledges that there is an immediate need for additional general market housing and its delivery is of significant benefit in the planning balance. This is a view I share. To my mind the provision of up to 156 houses is a significant benefit in the face of this shortfall, and is something to which great weight should be attached.

79. Further benefits of the scheme are the delivery of affordable and self-build housing. Once more, the Council accepts an immediate need for additional affordable housing, and its delivery is a significant benefit in the planning balance. I concur and afford significant weight to it and to the delivery of self-build housing. The contribution to public transport will benefit the wider community and so again is a matter to which significant weight is given. There will also no doubt be economic benefits both during the construction phase and once the houses are occupied, and these are afforded moderate weight.

80. I therefore find that, on balance, the adverse impacts of the scheme identified above would not significantly and demonstrably outweigh the benefits that arise from the delivery of additional housing in the face of an appreciable shortfall and from the other material considerations listed. As such, whilst I acknowledge development plan conflict, material considerations indicate the decision should be otherwise than in accordance with the development plan.

Conditions

81. For the avoidance of doubt, conditions should be imposed concerning the commencement of the permission and the submission of Reserved Matters. For this reason the scheme should be in accordance with the access details shown on the submitted drawings, and also reflect the parameters plan.

82. In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment, the working method, including a noise assessment and regard to vibration, needs to be agreed before works commence. Given such assessments, it is unnecessary to stipulate noise levels at neighbouring properties at this stage. Phasing plans (if necessary) should also be agreed.

83. Having regard to highway safety, the new access needs to be formed, with sight splays, before other works are undertaken and the old access stopped up soon after. Details should also be agreed of the proposed emergency and pedestrian accesses to Mill Lane, with details of how the use of the former would be restricted to emergencies only. Then, apart from that Mill Lane access and any access approved for construction, access should be solely from Chapel Street. Internal circulation roads and paths should also be provided to serve the new houses.

84. Mindful of the character and appearance of the area the walling along Chapel Street should be rebuilt, and remediation works for the range of buildings to

be retained should be approved so as to ensure their survival. Housing should also be set back a minimum of 20m from Mill Lane to maintain a soft frontage.

85. The design, delivery and management of foul and surface water drainage and also the SuDS scheme should be secured. In the case of the SuDS scheme, it is also necessary to secure a maximum discharge rate. However, whilst these matters are tackled under suggested conditions 19-24 and suggested condition 26, I consider they can be simplified. Finally, housing to wheelchair user standard should be provided and an assessment of potential contamination should be made. If unexpected contamination comes to light during construction, that can be addressed under other legislation.

86. Turning to the other suggested conditions, the housing mix would be apparent at Reserved Matters stage, and so does not need separate controls. Water draining onto the highway can be addressed when considering the road construction more generally. I also see no reason why all the dwellings hereby approved need be safeguarded from existing sources of environmental noise beyond the levels of protection delivered by other legislation, while the need for health impact screening has not been demonstrated. Finally, once remediation works to the range of existing farm buildings have been secured, their future use is a matter that can be addressed at a later date.

87. Conditions were also suggested concerning tree protection, design, parking, internal site circulation, the removal of 'permitted development' rights, levels, foundations, materials, landscaping, ecology and public open space delivery. Whilst these may well need to be controlled by condition, if that is to occur I consider it should take place under the Reserved Matters.

Conclusion

88. Accordingly, for the reasons given above I conclude the appeal should be allowed.

JP Sargent

INSPECTOR

Conditions Schedule

1) Details of the appearance, landscaping, layout, and scale (the Reserved Matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the Reserved Matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the Reserved Matters to be approved.

4) Unless otherwise amended under the conditions below, the development shall be in accordance with Drawings 31022 100-P-001A and 31022 100-P-002A, and shall reflect the form of development shown on Parameters Plan Rev A (dated July 2024).

5) No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:

   a) The points of access to be used.

   b) The area for loading/unloading plant and materials.

   c) The area for storing plant and materials.

   d) Any security hoarding around or within the site.

   e) Wheel washing facilities.

   f) Measures for controlling the emissions of dust.

   g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.

   h) The positioning of any gates to the site.

   i) External lighting.

   j) The hours of working.

   The development shall then be implemented in accordance with the approved details and timetable.

6) If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.

7) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority to demonstrate that 3% of dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. The development shall then be implemented in accordance with those approved details.

8) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for

their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

9) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of 2 access points (one emergency vehicular access, and one pedestrian access) between the site and Mill Lane. In the case of the emergency vehicular access, this shall include details and measures to restrict its use to emergencies only, along with a timetable for the implementation of those details and measures and a scheme for their intended management. The details and measures relating to the emergency vehicular access shall then be installed in accordance with the approved timetable and the emergency vehicular access shall thereafter be retained and managed in accordance with the approved management scheme.

10) Before the construction of any other works on site subject of this permission, the access off Chapel Street shown on the approved drawings shall be formed to a standard that has first been submitted to and approved in writing by the local planning authority. With the exception of any construction access identified in Condition 5 and the use of the emergency vehicular access referred to in Condition 9 for emergencies, sole vehicular access to and from the site shall thereafter be through this access.

11) Notwithstanding the specific details shown on the approved drawings, prior to the commencement of development details of the footway widening works, the manner in which the stone wall along Chapel Street is to be relocated using existing materials, and the intended method of closing the existing access to the site, shall be submitted to and approved in writing by the local planning authority. The relocation of the stonewall using existing materials, the footway widening works and the closing of the existing access, shall be completed in accordance with the approved details within 3 months of the installation of the new access under the terms of Condition 10 above.

12) Prior to the first use of the access to the site off Chapel Street, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.

13) No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.

14) With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

15) With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development shall be submitted to the

local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

16) With or before the submission of Reserved Matters, details of the SuDS scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Among other things, these details shall show how the means of discharging to the public sewer shall be at a rate not exceeding 4.75 litres per second. Once approved in writing, the SuDS scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

17) With or before the submission of Reserved Matters a condition survey of the buildings on-site to be retained, along with any necessary remediation works and a timetable for undertaking those works, shall be submitted to the local planning authority. Once approved in writing, the approved necessary remediation works shall thereafter be undertaken in accordance with the approved timetable.

18) With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.

19) No part of the main building of any dwelling or flat hereby approved (but for the avoidance of doubt not including any detached outbuilding) shall extend to within 20m of the carriageway to Mill Lane.

APPEARANCES

FOR THE APPELLANTS:

M Carter	Barrister
P Irwin	Highways consultant
M Johnson	Planning agent
B Richmond	Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

V Day	Senior Highways Engineer
M Evans	Principal Planning Officer
G Sharpe	Senior Solicitor
G Tyreman	Surveyor
R Welsh	Principal Policy Officer

INTERESTED PARTIES:

M Ferris	Chair, Hambleton Parish Council
J Janik	Local resident
K Murray	Local resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

FOR THE APPELLANTS

APP1: 15 Viewpoint photographs

APP2: Drawing 100-P-001 A

APP3: Drawing 100-P-002 A

APP4: Comments on Council's suggested conditions

APP5: Email to the Council suggesting a condition concerning access (dated 29 November 2024)

APP6: Signed section 106 Agreement (dated 2 December 2024)

APP7: Comments on Inspector's suggested conditions (dated 11 December 2024)

APP8: Email to the Planning Inspectorate, with attachments, concerning the effects of the new Framework on the case (dated 10 January 2025)

APP9: Email to the Planning Inspectorate responding to Documents LPA5 & LPA6, along with a Statement of Common Ground concerning appeal APP/U2750/W/24/3347833 (dated 24 January 2025)

FOR THE LOCAL PLANNING AUTHORITY:

LPA1: Local Plan Policy T7

LPA2: Letter from arriva date 7 May 2024

LPA3: Email accepting appellants' suggested condition of 29 November (dated 2 December 2024)

LPA4: Comments on Inspector's suggested conditions (dated 11 December 2024)

LPA5: Email to the Planning Inspectorate, with an attachment, concerning the effects of the new Framework on the case (dated 10 January 2025).

LPA6: Email to the Planning Inspectorate concerning the housing supply for the former Selby area (dated 10 January 2025)

LPA7: Email to the Planning Inspectorate confirming the status of the eLP (dated 21 January 2025)

LPA8: Email to the Planning Inspectorate responding to Document APP9 (dated 24 January 2025)

FOR LOCAL RESIDENTS:

LR1: Suggested matters to view on site visit from J Janik

Appeal Decision

Hearing held on 22 January 2025

Site visit made on 22 January 2025

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/U2750/W/24/3347833
Land east of Broadacres, Mill Lane, Carlton DN14 9NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Hallam Land Management Ltd against North Yorkshire Council.
- The application Ref is ZG2023/0732/OUTM.
- The development proposed is up to 200 residential dwellings with access to, but not within, the site.

Decision

1. The appeal is allowed and planning permission is granted for up to 200 residential dwellings with access to, but not within, the site at land east of Broadacres, Mill Lane, Carlton, DN14 9NB in accordance with the terms of the application, Ref ZG2023/0732/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with access to be considered at this stage, and matters of appearance, landscaping, layout and scale to be reserved for consideration later. I have determined the appeal on the same basis.

3. There are two extant planning applications[1] for housing on the appeal site. These are undetermined at present.

4. For a number of reasons, including the publication of the revised National Planning Policy Framework (the 'Framework') in December 2024, officers made a recommendation to the Development Plans Committee and the Selby and Ainsty Area Committee on 17 January 2025 that work on the emerging Selby Local Plan (eLP) should cease. It is understood that this recommendation was accepted. The same recommendation will be made to the Executive Committee and then to the Full Council on the 26 February. As such, the Council consider that the eLP can carry only limited weight. However, there is no reason to consider that the evidence base supporting the eLP should be disregarded. Indeed, the report to the Selby and Ainsty Area Committee set out that the Council can continue to apply some weight to the most recent evidence base when making decision on planning applications, and that the evidence prepared for the eLP will be rolled into the preparation of the North Yorkshire Local Plan as appropriate.

[1] Refs 2022/0399/OUTM and ZG2024/0727/OUTM

Main Issue

5. Despite the appeal already having been lodged, the application subject of this appeal was initially brought to the Selby and Ainsty area planning committee with a recommendation that the committee conclude that planning permission would have been approved subject to the completion of a planning obligation. In light of new evidence on viability, that recommendation was subsequently changed, in an officer update note, such that it was recommended that the committee conclude that planning permission would have been refused because the affordable housing proposed was below that which could viably be delivered.

6. On that basis, I consider the main issue to be whether the development would make an appropriate contribution to affordable housing provision.

Reasons

7. Policy SP9 of the adopted Core Strategy (2013) states that the Council will negotiate for on-site affordable housing up to a maximum of 40% of the total number of dwellings. The policy adds that the actual amount of affordable housing will have regard to any abnormal costs, viability and other requirements. No abnormal costs have been suggested.

8. With regard to viability, the Council's Affordable Housing Supplementary Planning Document SPD (2014), which is referred to in the policy, advises that negotiations on affordable housing provision on specific sites will be informed by up to date evidence. The evidence supporting policy SP9 dates from 2009 and the officer report confirms that policy SP9 is based on supporting assessments that are over a decade old. A more recent Local Plan Viability Report by Aspinall Verdi was carried out in January 2021 and updated in 2022 and was produced to support the eLP. This concluded that for developments on greenfield sites in the low value area, such as this site, 10% of all units should be affordable. Moreover it concludes these rates are only viable when CIL is nil. It is understood that the proposed development would be liable for CIL to the tune of just over £950,000.

9. As set out above, some weight can still be applied to the evidence base supporting the eLP. In particular, it is notable that whilst the Council recognise in their report to the Selby and Ainsty Area Committee that some of the evidence base documents supporting the eLP will need updating, such as the Gypsy and Traveller Accommodation Assessment, the Strategic Flood Risk Assessment, highways modelling and evidence relating to the regeneration of Tadcaster, there is no suggestion that the Viability Report needs updating.

10. Policy HG7 of the eLP realises the evidence in the Viability Report by confirming the minimum requirement of 10% of homes to be affordable on greenfield sites in low value areas. Policy CARL-G of the eLP which relates solely to the appeal site, also stipulates this 10% minimum requirement. Even if these policies carry limited weight, the evidence behind them remains to be of significant bearing.

11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal[2] where the Inspector

[2] Ref: APPU2750/W/24/3347885

considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough[3] noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved.

12. With regard to other requirements, referred to in SP9, the Council consider that the development does not provide the required amount of open space. The adopted policy relating to open space is RT2 of the Selby Local Plan (2005), which states that for proposals of five dwellings or more, recreational open space should amount to 60 square metres per dwelling. This would equate to 1.2 hectares and it is agreed by the parties that the development would provide 1.2 hectares of public open space including play areas.

13. ELP policy IC3 sets out the type of open space that would be needed based on the anticipated population. The Council suggest that, when considered against this policy, the development would provide around only half the required open space.

14. The officer report says that it is not appropriate to use policy IC3 as the Council have no evidence of the quantity or quality of the existing open space provision in Carlton and therefore to what extent additional provision is necessary. At the hearing it was confirmed that, in particular, it is the quality of the existing open space that has not been assessed.

15. Even before the decision to cease work was reached, the Council considered it was not appropriate to use policy IC3, and based on the lack of evidence to support that policy, I have no reason to disagree. Little weight can therefore be given to the proposal's conflict with that policy. Far greater weight can be given to the development's accordance with policy RT2.

16. In summary the provision of 10% of the dwellings in the development to be affordable would be an appropriate contribution to the provision of affordable housing. A completed section 106 agreement has been submitted which includes an affordable housing scenario securing 10%. This obligation accords with the tests in Regulation 122 of the CIL Regulations and so I have taken it into account. The alternative scenario in the agreement, of 13%, is unnecessary and I have had no regard to it. The development would accord with policy SP9, as set out above, and eLP policies HG7 and CARL-G.

Other Matters

S106

17. The S106 agreement includes a contribution towards healthcare based on the anticipated population of the development, for which there is no capacity at Beech House Surgery in Carlton. The additional floorspace necessary to meet the additional population, the cost of providing that and the resultant financial contribution has been justified in a letter from the NHS Humber and North Yorkshire Integrated Care Board.

[3] Ref APPU2750/W/23/3327421

18. The education contribution is based on the expected pupil yield from the development and the capacity of existing schools. I understand that the nearest secondary school, Holy Family Catholic School, is due to close soon. However, there is considered to be sufficient capacity at the nearest secondary school, Brayton Academy, to accommodate pupils from the development as well as from, Holy Family. However, there is insufficient capacity at Carlton Primary School to accommodate the anticipated primary school age children. Likewise a development of the scale proposed would generate a need for a contribution to Special Educational Needs and Disabilities provision locally which is at Selby Special School, and to contribute to the provision of additional capacity at early years or pre-school facilities in Carlton. All the values have been calculated and justified in correspondence from the Council's Children and Young Peoples Service team.

19. It is necessary to mitigate the effect of additional traffic using the Mill Lane/High Street junction, and to that end the agreement secures funds to extend the existing yellow line painting at this junction. There is also an undertaking which secures funding to provide new signage for the public right of way which currently runs across the site, and the nearby national cycle network. Also an obligation is included to secure funds to allow the Council to monitor the Travel Plan.

20. An obligation to secure a contribution towards the provision of four waste bins per dwelling is also included, which has been justified by the Council's Waste team.

21. The agreement will also ensure that 3% of the houses are self or custom build homes, that the recreational open space within the site is provided, and that biodiversity enhancement management and monitoring plan improvements are provided.

22. All these contributions have been justified and I consider them to be reasonable in scale and kind to the development, are directly related to the development. and are necessary to make the proposal acceptable in planning terms. I consider therefore that they meet the three requirements of Regulation 122 and I have therefore taken them into account.

Habitat Regulations

23. The Humber Estuary Special Protection Area (SPA) Special Area of Conservation (SAC) and Ramsar site is around 8km east of the site. Its qualifying features include a number of bird species such as Golden Plover and Knot, and habitats such as Atlantic salt meadows.

24. The Lower Derwent Vally SPA, SAC and Ramsar site is around 9km northeast of the site. Its qualifying features include Bewick's swan, and habitats such as Alder woodland on floodplains.

25. The River Derwent SAC is located around 5km northeast of the site and the Thorne Moor SAC and Thorne & Hatfield Moors SPA are located about 8.5km to the south east. Their qualifying features are their habitats as a river with floating vegetation and as raised bogs. The shadow Habitat Regulations Screening Assessment (sHRSA) found no impact pathways between the site and these European sites.

26. With regard to the Humber Estuary and the Lower Derwent Valley European sites, the sHRSA identified that because the appeal site has been intensively farmed with mechanical equipment and the use of pesticides it provides limited potential for

foraging habitat for the cited bird species. In addition, the proximity of dwellings and the use of the track along its eastern edge for dog walking provide sources of human disturbance which the cited bird species would be sensitive to. Lastly, there are significantly more suitable habitats for the cited species nearby. These factors along with the limited recorded activity of any of the cited birds at the site mean the development and the loss of open farmland will not be likely to have significant adverse impacts on the qualifying features of these European sites. Therefore even in combination with any other plans or projects, the development would not be likely to result in a significant adverse impact. This view reflects that of the Council ecologist and Natural England.

Heritage

27. Carlton Towers is a Grade I listed building situated around 500m to the southwest of the appeal site. It is a large country house originally dating from the early 17th century set in substantial grounds. Its significance stems from its historical value as the prominent building in the village over many centuries, and its aesthetic value which includes a tall central clock tower which is visible over a wide area, including from the appeal site. Its setting is largely informed by the estate parkland in which it sits, which itself is of local interest, and which contributes positively to its significance. The wider village also makes a contribution, albeit limited, to its setting.

28. The clock tower is not readily visible from the front of the appeal site due to trees along much of the southern side of Mill Lane. However from further into the site, and from positions on Long Hedge Lane to the east and north, the tower is visible in the distance reinforcing its prominence in the landscape, with the appeal site in the foreground. The development would therefore be seen in the same views as the listed building, albeit most likely partly screened by the proposed vegetation around the boundaries of the site.

29. The houses along Mill Lane, as well as the spread of houses in Broadacres, are also visible in views towards the clock tower. As such, the relationship of houses with the heritage asset is well established. Moreover, views of the clock tower would remain to be visible above the proposed dwellings, due to their modest maximum heights which are set out on the parameters plan, and the fact that the houses would be set well back from Long Hedge Lane. Although the development would introduce a significant number of houses, it is not considered that the relationship of the listed building to its surroundings would be materially altered and so there would be no harmful effect on the setting of the listed building. Consequently there would be no adverse effect on the significance of the listed building.

30. Similarly, the significance of the estate parkland, as a non-designated heritage asset, is primarily its role as the grounds for Carlton Towers. The development would have no impact on the significance of this asset. The Council's opinion on the effect on heritage assets is consistent with my view.

31. There are other listed buildings elsewhere in the village, but the Council do not consider the site is within the setting of these assets and, given their distance from the site and the intervening development, I have no reason to consider otherwise.

Local concerns

32. I have given careful consideration to the concerns of local residents. Though the development would result in additional traffic using the Mill Lane/High Street junction, with the Transport Assessment (TA) anticipating around 100 extra vehicles in the AM and PM peak hours, it is considered that there will be no unacceptable impact on the operation of this junction with only minimal queuing and delay likely. It is also anticipated that very little traffic would choose to take the more indirect route to the A1041 via Townend Avenue. It is noted that the surveys to underpin the TA were conducted during the Covid pandemic. However this was explicitly compensated for in the assessment. Other nearby developments and a general increase in traffic to 2029 was also taken into account to ensure robustness. Improvements would also be made to the pedestrian environment along Mill Lane as well as to the High Street/Mill Lane junction as set out above. Construction traffic, and noise, would be for a limited period and the timing of this traffic could be controlled by a Construction Environmental Management Plan. The layout of parking within the site would be dealt with as a reserved matter. The lack of objection from the Local Highway Authority supports my view.

33. Details of the scale and appearance of the houses and the layout of the site, including parking, are not before me at this outline stage. Therefore matters of privacy, outlook or light at the nearest existing properties can only be assessed at the reserved matters stage. Similarly landscaping is a reserved matter.

34. The development would represent a significant enlargement of Carlton. However I recognise that the site has been allocated for 150 homes in the eLP, and although work has ceased on this, there is no evidence before me to consider that the site would no longer be considered as a possible allocation. Indeed, it is common ground that following the publication of the revised Framework, the Council's housing need has increased and there is therefore even greater pressure to provide homes. As such, although the site is outside the development limit boundary for Carlton, which results in conflict with Policy SP2 of the Core Strategy, its allocation in the eLP, in policies HG1 and CARL-G can be given weight. Indeed it was not suggested by the Council that the principle of the proposal can no longer be supported.

35. Drainage details for foul and surface water would be controlled by a planning condition which requires the provision of schemes to be approved by the Council.

36. As well as providing financial contributions towards the local primary school, early years facilities and medical facilities in Carlton, there would be an economic benefit to local shops and services.

37. Details of ecological enhancements would be provided at the reserved matters stage and a substantial part of the site, closest to the neighbouring wooded area to the south east, would be set aside for biodiversity.

38. The site is classified as Grade 3a Best and Most Versatile agricultural land. Core Strategy policy SP18 says development will be steered to areas of least agricultural quality. The officer report states that in the wider area, the land to the east of the High Street, including the appeal site, is of lower grade than that to the west. I have no reason to consider otherwise, so although the development would result in the loss of agriculturally productive land, it would not conflict with the policy.

Conditions

39. A list of conditions was provided, with comments by both parties. I have considered their comments as well as the advice in the Framework and the Planning Practice Guidance (PPG) in the final wording of the conditions.

40. Conditions relating to the commencement of the development, the submission of reserved matters and identifying the approved plans are necessary in the interests of certainty.

41. I have imposed a condition which requires 6% of the houses to meet Building Regulation M4(3) wheelchair user standard, and for all homes to meet the Nationally Described Space Standards. Although there is no adopted policy explicitly requiring this, it does reflect the advice in the 2020 Housing and Economic Development Needs Assessment. I consider it necessary in the interests of promoting equality and enabling balanced communities.

42. The three conditions relating to works to the highway, creation of visibility splays and the construction of the access are imposed in the interests of highway safety. I have altered the condition relating to the visibility splays to simplify it and so that it accurately reflects the plans, and I have altered the condition relating to works to the highway so that it is clear that the provision of the footway should not compromise the width of the carriageway. The condition relating to the Travel Plan is necessary to promote sustainable travel.

43. I have amended the condition relating to foul drainage to omit the requirement to demonstrate approval from the sewerage undertaker. This is because it is unlikely that the details required by the condition could be provided without the sewerage undertakers approval. In any case, the Council could consult that body if that approval was not explicit in the details provided. This condition, and that relating to surface water, are imposed to ensure the development is served by satisfactory drainage.

44. I have removed some of the items in the condition relating to a Construction Environmental Management Plan. This is because they are either covered by other items in the condition, other legislation or are unnecessary. The altered condition is necessary to protect the living conditions of nearby occupiers. Likewise the conditions relating to any soil contamination and foundation piling are imposed for the same reason. I have altered the wording of the condition relating to remediation so that it relates only to the part of the site in which remediation is needed as to delay development on other parts of the site would be unreasonable.

45. Two conditions relating to maintenance of the water mains that pass through the site and the electricity cables, are imposed in order to maintain existing infrastructure. I have slightly reworded the condition relating to the electricity cables so that such infrastructure would only be relocated underground if necessary.

46. In the interests of ensuring the site and its surroundings are protected from flooding, a condition is attached to ensure any flood water which exceeds the capability of the proposed drainage features is suitably managed.

47. As agreed by the parties, I have removed the requirement for the finished floor levels of the houses to be 300mm above the 1 in 100 year plus climate change flood level. The remainder of the condition is necessary in the interest of

maintaining the character and appearance of the area. For the same reason I have imposed a condition relating to the protection of existing trees.

48. The biodiversity net gain condition has been amended as agreed by the parties to simply require the submission of an updated biodiversity impact assessment with the reserved matters. Also the condition relating to bat sensitive lighting has been amended to refer solely to the lighting within the appellant's control. The Council confirmed street lighting would be bat sensitive anyway. These conditions are necessary in the interests of promoting biodiversity.

49. A condition is attached to secure the necessary open space, however I have removed the explicit reference for the local area for play and the locally equipped area for play to be designed to the standards set out in guidance as it would be within the Council's control to refuse to discharge these details if they are sub-standard.

50. The condition requiring a health impact assessment screening checklist has not been included as the Council agreed it was unnecessary.

Conclusion

51. The proposal would accord with the development plan taken as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. Therefore the appeal is allowed.

A Owen

INSPECTOR

Schedule of Conditions

1) Details of the access (within the site), appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

3) The development hereby permitted shall be carried out in accordance with drawing nos 2337.01 and 17105/GA/02 Rev F.

4) The reserved matters application(s) shall conform with the approved parameter plan number 2337:04 Rev D.

5) The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the local planning authority. The details shall demonstrate that, as a minimum, the dwellings meet the Nationally Described Space Standards (2015) or any successor standards or policy; and how 6% of the dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. Where North Yorkshire Council has nomination rights M4(3) must be wheelchair accessible dwellings (constructed for immediate occupation), and in the market sector they must be wheelchair user adaptable dwellings (constructed to be adjustable for occupation by a wheelchair user). Development shall proceed in accordance with the approved details.

6) No development (excluding demolition, archaeological investigation, service diversions and any land remediation/ground improvement works) shall take place until detailed engineering drawings of the following have been submitted to and approved in writing by the local planning authority: a) All internal roads of the development; b) All works on drawing number 17105/GA/02 Rev F; c) Notes B to F inclusive on Detailed masterplan 2337.02 Rev D; d) The widening, to 2m where possible without encroaching onto the carriageway, of the footway on the northern side of Mill Lane from the application site frontage to the junction of Mill Lane with High Street; e) The emergency access to Broadacres Garth shown on Detailed Masterplan 2337.02 Rev D. The submission shall include an independent Stage 2 Road Safety Audit (commissioned in accordance with North Yorkshire Council protocol) carried out in accordance with 56 OFFICIAL GG119 - Road Safety Audits or any superseding regulations. The development shall proceed in accordance with the approved details. The works secured by criteria b to e inclusive shall be completed prior to the first occupation of any dwelling on the development.

7) The vehicle visibility splays of 2.4m x 47m to the east and 2.4m x 54m to the west, as shown on drawing number 17105/GA/02 Rev F, shall be free of any obstruction exceeding 0.6m in height. Pedestrian visibility splays of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of Mill Lane shall be free of any obstruction exceeding 0.6m in

height. All splays shall be provided prior to the first occupation of any dwelling on the development and retained as such thereafter.

8) No dwelling shall be occupied until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved and kerbed and connected to the existing highway network with any street lighting installed and in operation. The penultimate dwelling shall not be occupied until the access routes serving the development have been completed to wearing course level.

9) The Travel Plan October 2023 (Rev 2) shall be implemented in accordance with the details it contains.

10) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of surface water drainage for the whole site, including ground water pollution prevention measures, adoption/maintenance details and a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall comprise sustainable urban drainage systems, unless comprehensive justification for other methods is agreed. Thereafter the drainage scheme shall be implemented and maintained in accordance with the approved scheme.

11) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of foul drainage for the whole site, including details of the means and extent of impermeable lining of foul sewers within ground water source protection zones, a timetable for its implementation and adoption/maintenance details has been submitted to and approved in writing by the local planning authority. Thereafter the foul drainage scheme shall be implemented and maintained in accordance with the approved scheme. There shall be no temporary storage of foul sewage on the site.

12) No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction phase for the development. The plan shall include:

    i) details of any temporary construction access(es) to the site including measures for removal following completion of construction works;

    ii) details of onsite wheel and chassis underside washing facilities and methods of cleaning the highway;

    iii) the parking of contractors', site operatives and visitor's vehicles;

    iv) areas for storage of plant and materials used in constructing the development clear of the highway;

    v) measures to manage the delivery of materials and plant to the site including routing and timing of deliveries, loading and unloading areas;

    vi) pre-development condition survey of the parts of Mill Lane that will be used by vehicles associated by the development;

vii) details of development and delivery hours;

viii) erection of temporary security fencing;

ix) measures to control and monitor dust, dirt, noise and vibration emissions arising from the development;

x) removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;

xi) location and type of temporary lighting and methods to prevent light nuisance and harm to bats;

xii) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue at the site;

xiii) details of interception measures to avoid pollution of ground water source protection zones;

xiv) Details of the means of protecting trees and hedgerows during construction of the development, to be installed prior to the commencement of other elements of the development and to be retained until the development adjacent to the tree or hedgerow is completed.

13) No foundation piling shall take place until a schedule of works to identify 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. Development shall be carried out in accordance with the approved details.

14) No development shall take place, until a site investigation and risk assessment has been undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors, and it shall be submitted to and approved in writing by the local planning authority.

15) Where remediation works are shown to be necessary, no development shall take place until a detailed remediation strategy has been submitted to and approved in writing by the local planning authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works.

16) Prior to the occupation of the relevant phase of the development, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the local planning authority. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act.

17) In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the local planning authority. Following completion of measures identified in

the approved remediation strategy, a verification report must be submitted to and approved in writing by the local planning authority.

18) No building shall be located over or within 6 metres of the two water mains that pass through the site. Any tree, hedgerow or shrub planting within this protected area shall first be agreed in writing by the local planning authority. If the required stand-off distance is to be achieved via diversion or closure of the water main(s), the developer shall submit evidence to the local planning authority that the diversion or closure has been agreed with the relevant statutory undertaker.

19) The reserved matters application(s) shall include proposals to relocate, divert or place underground where necessary the electricity cables and related infrastructure that cross the site along the Mill Lane frontage and a timetable for doing so, for approval in writing by the local planning authority. This infrastructure shall be moved in accordance with the approved details.

20) The reserved matters application(s) shall include a flood water exceedance flow plan to be submitted to and approved in writing by the local planning authority. This shall include details of how the site design will ensure that when SuDS and or drainage features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30-year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100-year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site. Development shall be carried out in accordance with the approved details.

21) The reserved matters application(s) shall include details of finished floor levels of the dwellings, and existing and proposed surrounding ground levels, to be approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

22) No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with the approved landscaping plans submitted at reserved matters stage, without the written consent of the local planning authority. Any existing tree, shrub or hedge or any tree, shrub or hedge planted as part of the landscaping scheme or any replacement that dies or is removed, uprooted or destroyed or becomes seriously damaged or defective within a period of 5 years of completion of the landscaping scheme, must be replaced by another of the same species in the next available planting season.

23) The reserved matters application(s) shall include an up-to-date Biodiversity Impact Assessment which shall demonstrate a Biodiversity Net Gain of 10% and a methodology to ensure the submission of regular monitoring reports with remedial actions to achieve the objectives for 30 years from the date of completion of the habitat creation or enhancement. Biodiversity Net Gain shall be carried out in accordance with the approved details. The developer shall notify the local planning authority in writing within 14 days of the completion of the habitat creation and or enhancements that constitute the approved Biodiversity Net Gain scheme.

24) The reserved matters application(s) shall include a scheme of ecological enhancements for bats, birds and hedgehogs based on the measures outlined in the submitted Ecological Impact Assessment Report; hedgehog gaps in fences; a bat sensitive lighting scheme (not including street lighting) with particular avoidance of hedgerows and new/enhanced habitat; and an implementation schedule for approval in writing by the local planning authority. Development shall proceed in accordance with the approved details and the implementation schedule it contains.

25) The reserved matters application(s) shall include details of the public open spaces, a Local Area for Play (LAP) and a Locally Equipped Area for Play (LEAP) which are to be located within the public open spaces shown on the approved parameter plan. Development shall be carried out in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT

Jonathan Dunbavin	ID Planning Consultants
Mark Johnson	Johnson Mowat
Martin Carter	Barrister

FOR THE LOCAL PLANNING AUTHORITY

Martin Evans	Principal Planning Officer
Richard Welch	Planning Policy Officer
Diane Holgate	Principal Planning Officer
Glenn Sharpe	Council Solicitor
Jake Gamble-Schofield	Align Property Partners

DOCUMENTS PROVIDED AT THE HEARING

List of sold prices of houses in The Hawthornes, Carlton

Email exchange between Align Property Partners and the appellant regarding garage construction costs.

The Planning Inspectorate

Appeal Decision

Inquiry held on 9-11 and 16 January 2024

Site visit made on 17 January 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th February 2024

Appeal Ref: APP/U2750/W/23/3327616
Land off Barff Lane, Brayton, Selby, North Yorkshire YO8 9GR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by the Middlebrook Family, Stanley Middlebrook Trust and Gladman Developments Limited against the decision of North Yorkshire Council.
- The application Ref 2022/1410/OUTM, dated 29 November 2022, was refused by notice dated 15 May 2023.
- The development proposed is the erection of up to 95 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point from Barff Lane.

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 95 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point from Barff Lane at Land off Barff Lane, Brayton, Selby, North Yorkshire YO8 9GR, in accordance with the terms of the application, Ref 2022/1410/OUTM, dated 29 November 2022, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. A framework plan was however also submitted, showing the way that the site would be generally subdivided and laid out. This plan assists interpretation of the submitted Section 106 Agreement (S106), and the main parties have agreed that it should form the subject of a condition. Accordingly, it has informed my assessment below.

3. The Council is working on a new Local Plan (the emerging Plan). Whilst this has previously reached Regulation 19 stage, the Council intends to rerun the consultation following administrative change. Given the stage reached I can attach limited weight to the emerging Plan's policies. Insofar as it remains relevant, I shall however refer to it in my assessment below.

Main Issues

4. The main issues are:

   - whether the site is a suitable location for the development having regard to its effect on: (a) the delivery of planned growth, and (b) the character and appearance of the area; and

- the effect of the development on Brayton Barff Site of Importance for Nature Conservation (SINC).

Reasons

Location

(a) *Planned growth*

5. Policy SP2 of The Selby District Core Strategy 2013 (the Core Strategy) sets out the Council's spatial development strategy. This directs development to settlements based on their position within a hierarchy, and to locations within defined development limits, outside of which development is restricted. This is further elaborated within Policy SP5 of the Core Strategy which provides a table of housing figures and a proportional split between different settlements and tiers within the hierarchy. Within this context Brayton is identified as a Designated Service Village (DSV). Though the supporting text of Policy SP2 states that DSVs are suited to 'limited further growth', Brayton is one of 3 DSVs identified as particularly sustainably located, within which growth will complement that in Selby. The latter is the Principal Town within the hierarchy.

6. The site lies outside the development limit of Brayton, within the open countryside. In this regard the type and location of development proposed would conflict with Policy SP2.

7. The development limit was however defined in 2005, and a footnote to Policy SP2 envisaged a review. This would have been required to accommodate the growth outlined within Policy SP5, and in conjunction with the production of a 'Site Allocations Local Plan'. Neither was completed. Consequently, aside from old allocations made by the Selby District Local Plan 2005 (the Local Plan), the Council has been increasingly reliant upon windfall development. There has also been an accompanying acceptance that much of this must be delivered on sites outside defined development limits.

8. The results are visible on the west side of Brayton, where, to the east of the site, there is now no direct relationship between the designated development limit and the edge of the built-up area. Within this location the development limit has indeed ceased to provide any coherent or meaningful distinction between the built-up area of Brayton and the open countryside. Thus, whilst the site's designation as open countryside under Policy SP2 continues to reflect reality, the development limit itself does not. As such, I attach very little weight to the appeal scheme's conflict with Policy SP2.

9. Insofar as one of the original purposes of the development limit was to assist in protecting the countryside from encroachment, the scheme's effects otherwise stand to be assessed against the more general provisions of Policy SP18 of the Core Strategy. I shall return to this in my consideration of character and appearance below.

10. Policy SP5 sets out minimum indicative housing figures. These too are now out of date given both the age of the Core Strategy and a shift to the standard method of calculating housing need. The hierarchy outlined within Policy SP2 itself remains soundly based on an understanding of the role and function of different settlements within the former District. Little change in this hierarchy is indicated within the emerging Plan. But though the proportional split outlined within Policy SP5 obviously reflects the hierarchy, it cannot be used as anything

more than a broad yardstick given that the outdated figures within Policy SP5 form an interrelated set.

11. Policy SP2 provides no distinction between the 18 settlements classified as DSVs, despite recognition of differences in their level of sustainability and relationship with Selby, as noted above. This appears reflected in the amount of growth which has occurred in Brayton during the plan period. The proposed development would add to this growth. However, there is no suggestion from the Council that this would affect the function of Brayton or its role within the hierarchy, or that local services and facilities are in any way incapable of supporting such growth. I see no reason to reach a different view. Indeed, subject of obligations within the S106 the development could be absorbed without any adverse effect.

12. As such, if the development would result in some mild deviation from the proportional split envisaged by Policy SP5, this would not result in any obvious harm. Even if a deviation was held to be of some significance it might only be temporary. This is because it cannot be expected that growth beyond the minimum figures outlined within Policy SP5 would be delivered across the settlement hierarchy at an even rate.

13. The Council has highlighted the fact that the housing need calculated using the standard method results in an annual requirement lower than is set out with Policy SP5. However, this makes no difference to my findings above.

14. In summary, for the above reasons the appeal scheme would not undermine the spatial development strategy as outlined within Policies SP2 and SP5, or therefore the delivery of planned growth. Insofar as limited conflict would arise with Policy SP2 in relation to the development limit, I attach very little weight to this conflict. I shall return to this in concluding on the issue below.

(c) *Character and appearance*

15. The roughly rectangular field which comprises the majority of the site lies immediately north of Barff Lane. Its east side is starkly defined by the close boarded fence of an adjacent housing development, whilst its south side is unenclosed. The overgrown embankment of a dismantled railway line runs along the north side of the site, whilst a gappy hedgerow encloses the west. Individually, the site presents an unremarkable and somewhat degraded character, but one which is obviously distinct from that of the adjacent built-up area of Brayton.

16. The built-up area of Brayton is defined by a generally straight north-south edge to either side of Barff Lane. The straightness of this edge, together with the layout, density and landscaping of the recent housing developments to which it relates provide a distinct point of entry and exit to the settlement, but an abrupt transition in character. Further to the north and south the edge cuts away sharply, accentuating what has been described as a distinctive 'indentation' of the settlement edge. The overall irregularity this provides on the west side of Brayton is particularly apparent from Mill Lane and from the public right of way across farmland to the north of the site linking Brayton with Thorpe Willoughby (the PROW). This limits the extent to which the built-up area is currently perceived as 'compact'.

17. The proposed development would extend linearly beyond the existing straight edge of the built-up area. This would however occur at much the same depth as existing development on the north side of Barff Lane immediately to the east. In common with the latter, the north side of the proposed development would be defined and enclosed by the former line of the dismantled railway. This would in turn accentuate the existing indentation of the settlement edge, as perceived from the PROW. From vantage points along the PROW the visual presence of development would be increased despite screening, particularly when walking westward. But the effect would be brief, and a clear sense of transition from an urban to a rural landscape would remain. So too would the appreciable gap of open agricultural land which separates Brayton from Thorpe Willoughby.

18. The westward projection of the development would appear more noticeable and somewhat less well integrated with the existing built-up area when viewed from the south. This would be due to the openness of land on the opposite side of the road, and a lack of alignment with the existing straight settlement edge to the south. The latter would be pronounced even within the context of overall irregularity. Any potentially adverse effects could however be satisfactorily addressed by careful layout and landscaping. The suggested buffering and enclosure of the development using trees and hedges would appear appropriate within context and would provide a soft transition between the built-up area and its open setting. This could in turn help to address the insensitive physical and visual character of the existing settlement edge. In this regard I have been provided with no reason to believe that the edge would see any improvement in the absence of the development.

19. A distinctive wooded hill known as Brayton Barff lies towards the southwest of the site. The hill is visible across a wide area due to the prevailing flatness of the surrounding landscape. Within this context its visual character and distinctiveness is perceived and accentuated with reference to the open agricultural fields which partly surround it. The site forms one of these fields.

20. Given the geographical extent of the setting, the quality of views towards Brayton Barff from within it inevitably varies. The most notable views are those within which the visual continuity of the agricultural landscape surrounding Brayton Barff is not obstructed or broken by intervening features. These are qualities apparent in public views from Mill Lane, from Barff Lane, and from sections of the PROW further to the northwest of the site. However, they do not distinguish the views available from within or across the site, or from the section of the PROW immediately to the north. This is due to the intervening presence of Barff Lane and the vegetated embankment of the dismantled railway. In the absence of any right of public access to the site, views from within it are otherwise private, as are views across the site from adjacent dwellings. As a component of the broader landscape setting of Brayton Barff, the role played by the site is therefore of less value than that of other land.

21. This broadly reflects the findings of the 2019 *Selby District Local Landscape Designation Review*, which forms the basis for the emerging Plan's proposed Hambleton Hough and Brayton Barff Locally Important Landscape Area (LILA). The LILA would see 2 geographically limited existing designations merged and expanded, taking in the most important parts of the setting of Brayton Barff. This would exclude the site and land immediately to the north.

22. The development would not have any adverse effect on the ability to appreciate the character of Brayton Barff within the unobstructed public views noted above. The development would partly obstruct visibility of Brayton Barff from the PROW. However, the fact that views are already largely obstructed by the vegetated embankment of the dismantled railway, and that views of much higher quality exist a short distance to the west, means that this would not cause any unacceptable harm.

23. The development would be visible within limited views from the permissive path around the perimeter of Brayton Barff itself. Again, views from the path extend across a broad area and are variable in terms of their quality and coverage. Whilst the titanic form of Drax Power Station is a striking component of views from the east side of Brayton Barff, the built-up area of Brayton also has a strongly established presence. This is again accentuated by the absence of any meaningful planting along the existing settlement edge. The open fields south of Barff Lane would continue to provide the foreground in any view of the proposed development, and as considered above, careful landscaping of the development would help to soften both its appearance and that of the existing built-up area of Brayton. As such the appeal scheme would not have any unacceptable effect on the ability of visitors to Brayton Barff to appreciate its position within the landscape, or the relative tranquillity and wildness of its woodland.

24. In summary the development would not cause any unacceptable harm to the character and appearance of the area. As such no conflict would arise with Policy SP18 of the Core Strategy insofar as this seeks to safeguard the natural environment including the landscape character and setting of areas of acknowledged importance.

(d) *Conclusion*

25. For the reasons set out above I conclude that notwithstanding limited conflict with Policy SP2 of the Core Strategy, the site is an appropriate location for the proposed development having regard to its effects on the delivery of planned growth, and the character and appearance of the area. In these regards, my findings above indicate the acceptability of the location considered against the development plan taken as a whole.

Brayton Barff SINC

26. The majority of Brayton Barff is in the private ownership of Yorkshire Water, with the remainder owned by the Council. It is largely covered by mixed deciduous woodland, most of which is designated as ancient, and within which there are a number of veteran trees. This in turn forms the basis for Brayton Barff's local designation as a SINC.

27. Brayton Barff is advertised by YW as a place to visit, and its topography, woodland cover and seasonal show of bluebells adds to its attractiveness. This is amplified in context by the predominately open and flat landscape setting. Given that the site lies a reasonably short distance from Brayton Barff, and given their linkage by road and footpath, it is likely that active future occupants of the development would visit. Setting aside all other possible variables, a slight overall increase in visitor numbers might therefore be anticipated, thus giving rise to a slightly increased level of visitor impact.

28. The National Planning Policy Framework (the Framework) identifies ancient woodland as an irreplaceable habitat. It further states that development resulting in loss or deterioration should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

29. Any single visit to an ancient woodland by a member of the public for recreational purposes would give rise to some form of impact. That impact might be adverse. There is however no stated position in national policy or guidance that the public should be prohibited from accessing ancient woodland on that basis. Indeed, the Forestry Commission's 2010 practice guide, *Managing Ancient and Native Woodland in England* (the Practice Guide), highlights the value of ancient woodland for recreation, and encourages the provision of permissive access. The Planning Practice Guidance (PPG) likewise identifies recreational opportunities in relation to green infrastructure, including woodland.

30. Insofar as the Standing Advice published by the Forestry Commission and Natural England includes impacts arising from public access amongst the ways in which deterioration can occur, the Practice Guide explains that almost all recreational activities can be a problem if carried out intensively. There is however no established threshold at which deterioration of ancient woodland can be held to occur. In relation to existing woodland condition, the PPG further indicates that this can usually be improved with good management. Balancing recreational use with conservation is clearly an important role of management, which is in this case the responsibility of the landowners.

31. Given the above, public access to ancient woodland for recreational purposes cannot be considered possible in principle without some form of impact which logically falls short of 'deterioration'. Were this not the case then a simplistic linkage of impact with deterioration would form a basis to refuse any development which might lead to an additional visit. Establishing when deterioration might be said to occur therefore ultimately requires an evidence-based understanding of the processes at work, as too an appreciation of the role played by management.

32. The available visitor survey data for Brayton Barff is both limited and incomplete. The woodland does however closely abut the built-up area of Thorpe Willoughby, is directly linked to Brayton by footpaths, and a car park allows for visits from within the broader area. The latter appeared well used during my visit, even in near freezing conditions. As such, and given the character of Brayton Barff, I have no reason to question claims that it receives a high number of visits.

33. The woodland can be freely accessed through use of a public right of way and a permissive surfaced path. Other informal paths through the woodland also exist, and access to them is not restricted. The fact that many of the paths are shown on Ordnance Survey mapping implies that they are well established. As is typical of any path with an unmodified earth surface, these informal routes will have experienced inevitable surface erosion and likely compaction, as will other spaces accessed within the woodland. Some possible trampling and nutrient enrichment by dog waste is also likely. However, the specific extent and degree of any harm caused, over what period, how this relates to visitor numbers, behaviour, and the attributes of the woodland, and what role

management does or could play, is unclear. Indeed, I have been presented with little more than anecdotal evidence relating to these matters.

34. The Council's view that the ancient woodland at Brayton Barff is incapable of absorbing any net increase in visits without deterioration is presented simply as 'common sense'. But it is not raised within either the existing development plan or the emerging Local Plan, including its draft allocations for Brayton which could also yield additional visits. Nor does it appear to have impeded the approval of other developments within the immediate vicinity, including those directly adjacent to the site.

35. The appellants' own assessment adds little given that it provides no more than a generic list of potential visitor impacts. Its finding that some additional impact would arise if visitor numbers increased simply states the obvious, much as discussed above. As such, the appellants' assessment does not serve to substantiate the Council's position. Nor can the appellant be reasonably expected to compensate for the Council's lack of evidence by providing that evidence themselves.

36. The appellants' proposed provision of directly accessible circular walking routes across adjoining land, and linking the development to existing public rights of way, would in any case provide alternative scope for outdoor recreation. Given the reportedly limited availability of walking routes within the surrounding area, the benefits of this would be likely to extend beyond future occupants of the development, to existing residents within adjacent parts of Brayton. Whether or not some of the latter informally access the site and adjacent fields at present, the provision of permissive access and a properly formed path would be attractive to a broader population.

37. In summary, based on the limited evidence set before me, past unrestricted access to Brayton Barff has led to inevitable visitor impacts which may have caused some degree of harm. Whilst these impacts do not appear to be fully understood, it is likely that both they and the existing condition of the woodland could be addressed by improved management. Given the popularity of the location for recreational use a slight net increase in visitor numbers could potentially result from the development, and all such visits would have an impact. The likelihood of this would however be reduced by the provision of alternative walking routes, and I have been provided with no reason to believe that any residual increase in visits would result in deterioration.

38. Based on my findings above, and insofar as it would help to meet one objective set out within Policy SP19 of the Core Strategy, the obligations within the S106 relating to provision of 'permitted paths' pass the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework (the tests).

39. However, an obligation within the S106 securing a financial contribution towards funding of wide-ranging management measures at Brayton Barff, does not. Though the measures might well be useful, there is no basis within adopted policy or guidance for me to assess the proportionality of the proposed contribution, and no management strategy which would provide a context for application of the specified measures has been set before me. My findings above furthermore indicate a current lack of evidence justifying a need for such a contribution. As the obligation does not pass the tests, it cannot be taken into

account. This does not alter my overall view of the acceptability of the development.

40. For the reasons set out above I conclude that the development would not have an unacceptable effect on Brayton Barff SINC. The development would not therefore conflict with Policy SP18 of the Core Strategy which amongst other things seeks to safeguard national and locally protected sites for nature conservation, including SINCs, from inappropriate development; or saved Policy ENV1 of the Local Plan which seeks to secure a good quality of development, taking into account effects upon wildlife habitats. Insofar as the Council again cited conflict with Policy SP2 of the Core Strategy in relation to this matter, it has little direct relevance.

Other matters

41. Planning permission was partly refused on the basis that the development would entail the loss of best and most versatile agricultural land (BMVL). The existing status of the site is however uncertain as it is broadly classified as 'Grade 3', whereas only Grade 3a land qualifies as BMVL. The Council has otherwise withdrawn its assertion of conflict with Policy SP18 of the Core Strategy given the amount of BMVL available locally, and the requirement for its use to deliver future development. Whilst I recognise the broader benefits of BMVL, most particularly where its presence is proven, I see no reason to take a different view. The minor harm that would potentially result from the loss of a small amount of BMVL, which would be clearly outweighed by the broader social and economic benefits of housing provision, does not alter my view of the acceptability of the development.

42. Interested parties have raised concern that a loss of open green space would have adverse effects on mental health, including in relation to persons who are neurodivergent. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have had due regard under Section 149 of the EA 2010 of the requirement to take steps to meet the needs of persons who share a protected characteristic. As outlined above, the site largely consists of open green space, but the public currently has no right of access. The development would on the other hand involve provision of publicly accessible open space within the site, and the provision of permissive paths would improve the quality and level of public access to other open green spaces within the immediate area. The net effects would therefore be overwhelmingly positive. The site forms a component of the outlook from a small number of dwellings within the housing estate abutting the site to the east. Though the loss of a private view is not generally a consideration capable of attracting weight, change might nonetheless be disruptive. In this regard the Framework Plan shows scope for landscaping along the eastern edge of the site, thus providing some potential improvement in immediate outlook. A construction method statement would additionally help to ensure that scope for disturbance during the construction process was minimised. Change would itself occur gradually given the time likely to be taken to develop the site. For this and the above reasons I am satisfied that the development would not give rise to any unacceptable adverse impact on persons who share a protected characteristic, or in relation to the mental health of the local population more generally.

43. Interested parties have raised various additional concerns not shared by the Council. These include flooding, drainage, loss of privacy, harm to ecology, pressure on local services, and the potential for adverse effects on use of the highways. Whilst there would be no obvious scope for unacceptable loss of privacy, other identified matters can be satisfactorily addressed by condition, by mitigatory measures secured within the S106, and through the reserved matters.

44. The S106 contains a range of obligations in addition to those considered above. These secure the provision of affordable housing, including first homes, in accordance with Policy SP9 of the Core Strategy and national policy; the provision of on-site open space and play facilities in accordance with Policy RT2 of the Core Strategy and the Developer Contributions Supplementary Planning Document 2007 (the SPD); the payment of a contribution towards local healthcare provision calculated in line with national formulae; the payment of a contribution towards the provision of bins in line with the SPD; contributions towards a Traffic Regulation Order reducing the speed limit on Barff Lane, the provision of a bus shelter, and improvement of cycle links, all in accordance with saved Policy T1 of the Local Plan and Policy SP15 of the Core Strategy; and the payment of a monitoring fee, as provided for by the PPG. I am satisfied that the above obligations pass the tests.

45. At appeal the adequacy of the Council's demonstrable supply of deliverable housing sites was challenged by the appellants, and it was additionally asserted that the policies most important for determining the application were out of date. The matter was subject of evidence and discussion at the Inquiry, and to the extent that it is relevant, I have considered the outdatedness of development plan policies above. Given that I have already found that the appeal scheme would comply with the development plan taken as a whole, further consideration of the above matters is unnecessary.

Conditions

46. A range of conditions have been proposed and were subject of discussion at the Inquiry. Having further regard to the PPG, I have reworded and rationalised the content of the conditions as necessary, and as set out below.

47. Conditions (1) – (4) are standard conditions identifying the reserved matters; the timescale for submission of details and commencement of the development; and identifying of the approved access plan for sake of certainty.

48. Condition (5) accommodates a number of proposed conditions relating to on-site ecological mitigation, enhancement and management. The condition is required to ensure that effects in relation to on-site biodiversity, and species using the site are acceptable.

49. Condition (6) secures provision of a detailed Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement in line with the recommendations of the appellants' Arboricultural Impact Assessment Report, thus helping to safeguard existing trees.

50. Condition (7) accommodates a number of proposed conditions relating to drainage and is required in order to ensure that the development is properly drained.

51. Condition (8) is imposed to ensure that details submitted in relation to the reserved matters of landscaping and layout are generally governed by the submitted framework plan.

52. Condition (9) is imposed to ensure that recommendations within the submitted noise report are incorporated within the scheme layout, and to secure standards of construction that will protect future occupants from road noise.

53. Condition (10) secures measures to addresses an identified risk of contamination, whilst Condition (11) covers the possibility of unforeseen risks. Each is imposed in the interests of health and safety. Condition (10) is required pre-commencement given that risks will arise from the outset.

54. Condition (12) secures a scheme of further investigation of on-site archaeology, the presence of which was confirmed by a geophysical survey. A pre-commencement condition is required given that the deposits would most likely be destroyed by construction.

55. Condition (13) secures a construction method statement which is required in the interests of neighbour amenity and highway safety. A pre-commencement condition is again required as adverse effects could arise from the outset.

56. Condition (14) accommodates a number of suggested conditions relating to highways delivery and technical matters and is required to ensure appropriate construction and highway safety.

57. Condition (15) secures provision of a Travel Plan in the interests of promoting sustainable travel.

58. Condition (16) secures the delivery of off-site highways works not otherwise secured by the S106, which are required in the interests of highways safety.

59. Though a condition seeking to secure a hedgerow on other land in the same ownership was proposed, the condition risks being unenforceable should ownership change. The hedge formed a component of the permitted paths scheme as originally proposed, but it is not detailed in the S106. I am however satisfied that it is not an essential component of that scheme.

Conclusion

60. Exercising due regard under section 149 of the EA 2010, I conclude that for the reasons set out above the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

1) Details of appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) Insofar as it details the site access, the development hereby permitted shall be carried out in accordance with the following approved plan: 3662-F01 Rev J.

5) Prior to or in conjunction with the first reserved matters application a Biodiversity Mitigation and Enhancement Strategy (BMES) shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be informed by the Ecological Impact Assessment ref. CSA/6114/06 Rev.B, and shall additionally include:
   a) an updated Biodiversity Net Gain Assessment;
   b) a bat-friendly lighting strategy addressing both the construction and occupation phases of the development; and
   c) a management plan.

   The development shall be carried out and thereafter managed in accordance with the approved BMES.

6) Prior to or in conjunction with the first reserved matters application a detailed Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, including a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.

7) Prior to or in conjunction with the first reserved matters application, a site drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall be informed by the submitted Flood Risk Assessment and Outline Surface Water Drainage Strategy ref. 680553-R1(01)-FRA, and shall include:
   a) details of how surface water and silt run-off from the site will be managed during construction;
   b) a plan indicating how exceedance flows will be safely managed; and
   c) details of arrangements for the adoption and maintenance of the surface water drainage system.

   The approved scheme shall then be implemented prior to the first occupation of the dwellings hereby permitted.

8) Details submitted in relation to the reserved matters of layout and landscaping shall be governed by the Development Framework Plan ref. CSA/6114/107 Rev.F.

9) Details submitted in relation to the reserved matter of layout shall be informed by the recommendations of the submitted Noise Assessment Report. They shall be additionally accompanied by a revised specification of the constructional measures necessary to safeguard future occupants of the development from external road noise for approval in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved specification.

10) The development hereby permitted shall not commence until a scheme that addresses the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
    a) A revised preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
    b) A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
    c) The results of the site investigation and detailed risk assessment, 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.
    d) 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 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

    The scheme shall then be implemented as approved.

11) Any previously unidentified contamination that is found during construction of the development hereby permitted shall be immediately reported to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

12) Prior to the commencement of the development hereby permitted an archaeological Written Scheme of Investigation (WSI) shall be submitted to and approved by the Local Planning Authority. The WSI shall be informed by the submitted Heritage Desk-Based Assessment and Geophysical Survey, shall include an assessment of significance and research questions, and shall detail:
    a) a programme and methodology of further site investigation and recording;
    b) a programme of post-investigation assessment;
    c) the provision made for analysis of the site investigation and recording;
    d) the provision made for publication and dissemination of the analysis and records of the site investigation;
    e) the provision made for archive deposition of the analysis and records of the site investigation; and
    f) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

    The development shall then be undertaken in accordance with the approved WSI, and shall not be fully occupied until the post-investigation assessment has been completed, and provision has been made for analysis, publication and dissemination of results, and for archive deposition.

13) Prior to the commencement of the development hereby permitted a Construction Method Statement (CMS) shall be submitted to and approved in

writing by the Local Planning Authority. The CMS shall be fully compatible with the BMES approved in relation to Condition 5 and the TPP and AMS approved in relation to Condition 6, and drainage measures approved in relation to Condition 7(a), and shall include details of:

a) any temporary construction access to the site;
b) parking of vehicles for site operatives and visitors;
c) areas for loading, unloading and storage of plant and materials;
d) details of hoardings/security fencing;
e) measures to control the emission of water, dust and dirt;
f) measures to minimise light, noise and vibration nuisance;
g) waste management measures;
h) hours of work, including deliveries;
i) management of arrivals and departures including HGV routing; and
j) contact details of the person responsible for overseeing the CMS.

Construction of the development shall then proceed in accordance with the approved CMS.

14) Prior to the commencement of the development hereby permitted, a programme detailing the delivery of highway infrastructure within the site shall be submitted to and approved in writing by the Local Planning Authority. The programme shall include:

a) the phasing/timetabling of works;
b) engineering drawings showing construction details of roads, footways, and any structures which will affect or form part of the highway;
c) the provision of pedestrian visibility splays measuring 2.0 metres x 2.0 metres down each side of the site access and the back edge of the footway; and
d) provision made for roads and footways to be at constructed to binder course macadam level/paved (as applicable), kerbed, connected to the existing highway network and lit prior to any related dwellings being occupied.

The development shall then be carried out in accordance with the approved programme, and the pedestrian visibility splays shall thereafter be retained and kept free from obstruction.

15) Prior to the first occupation of the development hereby permitted, a Travel Plan based on the principles set out in the submitted Travel Plan Framework dated May 2023 shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall then be implemented as approved.

16) No part of the development hereby permitted shall be occupied until the off-site highways works detailed on approved plan 3662-F01 Rev J have been implemented in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

APPEARANCES

For the Appellants

Christian Hawley	Counsel for the appellants, No.5 Chambers

He called:

Silke Gruner	(Character and appearance) Iceni
John Mackenzie	(Planning) Gladman Developments Limited
Aidan Marsh	(Ecology) CSA
Ben Pycroft	(Housing supply) Emery Planning

For the Local Planning Authority

Ian Ponter	Counsel for the Local Planning Authority

He called:

Julia Casterton	(Ecology) North Yorkshire Council
Helen Golightly	(Character and appearance) North Yorkshire Council
Richard Wood	(Planning/Housing supply) Richard Wood Associates Limited

Additional contributions from:

Linda Drake	(Planning) North Yorkshire Council
Glenn Sharpe	(Legal) North Yorkshire Council

Interested Parties

Paul Acass	Local resident
Derek Cooper	Friends of Brayton Barff
Mark Crane	Local Councillor
Joan Dockery	Local resident
Stacy Gouldson (with son)	Local resident
Jennifer Hubbard	Local resident
Gale Levko	Local resident
Emma Piggot	Local resident
Edward Roberts	Local resident

INQUIRY DOCUMENTS

ID1 The Appellants' Opening Statement

ID2 The Local Planning Authority's Opening Statement

ID3 Letter to PINS from Hallam Land Management

ID4 CIL Compliance Schedule

ID5 Disputed Sites Table

ID6 Brayton Barff Mitigation Costings

ID7 Draft Planning Conditions

ID8 4 Year Housing Land Supply Calculations

ID9 Email from Persimmon

ID10 The Local Planning Authority's Closing Statement

ID11 Housing Land Supply Addendum to the Local Planning Authority's Closing Statement

ID12 The Appellants' Closing Statement

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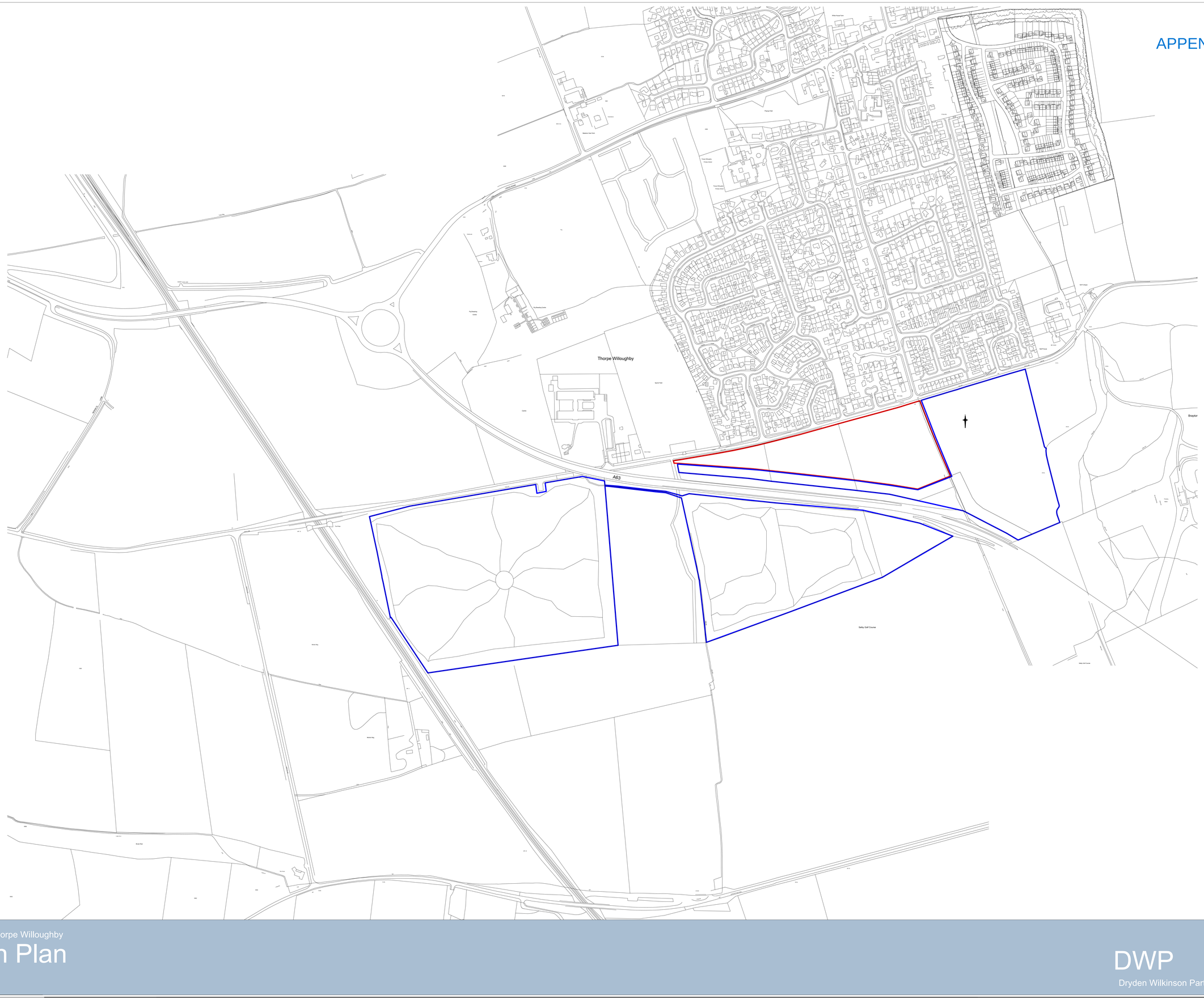
APPENDIX F



Land at Field Lane, Thorpe Willoughby

Location Plan

Dwg No 2444 / 0010 REV A
August 2022
Scale 1:2500 @ A0

DWP
Dryden Wilkinson Partnership Ltd
Norwood Barn
Lower Norwood Road
Norwood
Leeds LS21 2RA
01943 466249

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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

30 APRIL 2025

2021/0550/FULM - ERECTION OF 25 NO DWELLINGS INCLUDING ASSOCIATED WORKS FOLLOWING DEMOLITION OF AN EXISTING DWELLING AND ITS ASSOCIATED BUILDINGS AND DEMOLITION OF EXTENSION TO VILLAGE HALL TO FACILITATE ACCESS, LAND OFF CLIFFE ROAD, OSGODBY

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine a planning application for the proposed erection of 25 No. dwellings and associated works following the demolition of an existing dwelling and its associated buildings and the demolition of an extension to the village hall to facilitate access at land off Cliffe Road, Osgodby.

1.2 This application has been reported to Committee as the Corporate Director of Community Development considers the planning application to raise significant planning issues.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to prior completion of a Section 106 Agreement to secure the matters detailed below and the conditions detailed below.

2.1. This is an application for the proposed erection of 25 No. dwellings and associated works following the demolition of an existing dwelling and its associated buildings and the demolition of an extension to the village hall to facilitate access at land off Cliffe Road, Osgodby.

2.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

2.3. The proposal is contrary to Policy SP2 of the Core Strategy as it involves residential development outside the defined development limits of any settlements and in the open countryside in planning policy terms. The proposal should therefore be refused unless material considerations indicate otherwise.

2.4. The NPPF is a material consideration. The Local Planning Authority cannot demonstrate a five-year supply of housing land as required by the NPPF. Therefore,

the policies most important for determining the application, SP2 and SP5[1], are out of date as set out in Paragraph 11 of the NPPF.

2.5. Paragraph 11d of the NPPF states that in terms of decision-making and the presumption in favour of sustainable development:

"d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

2.6. The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more detailed as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

2.7. The adverse impacts include the modest scale of loss of best and most versatile agricultural land which would result in minor harm to the agricultural economy in the area as well as food self-sufficiency. In addition, some moderate adverse localised landscape and visual effects of the development encroaching into the countryside; and conflict with the development plan.

2.8. Neutral matters include the lack of conflict with mineral policies; density of development; the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species or any harm to designated sites; the site can be made safe from contamination; residential amenity would not be harmed; required education, healthcare and waste and recycling contributions can be secured to ensure no detriment is caused.

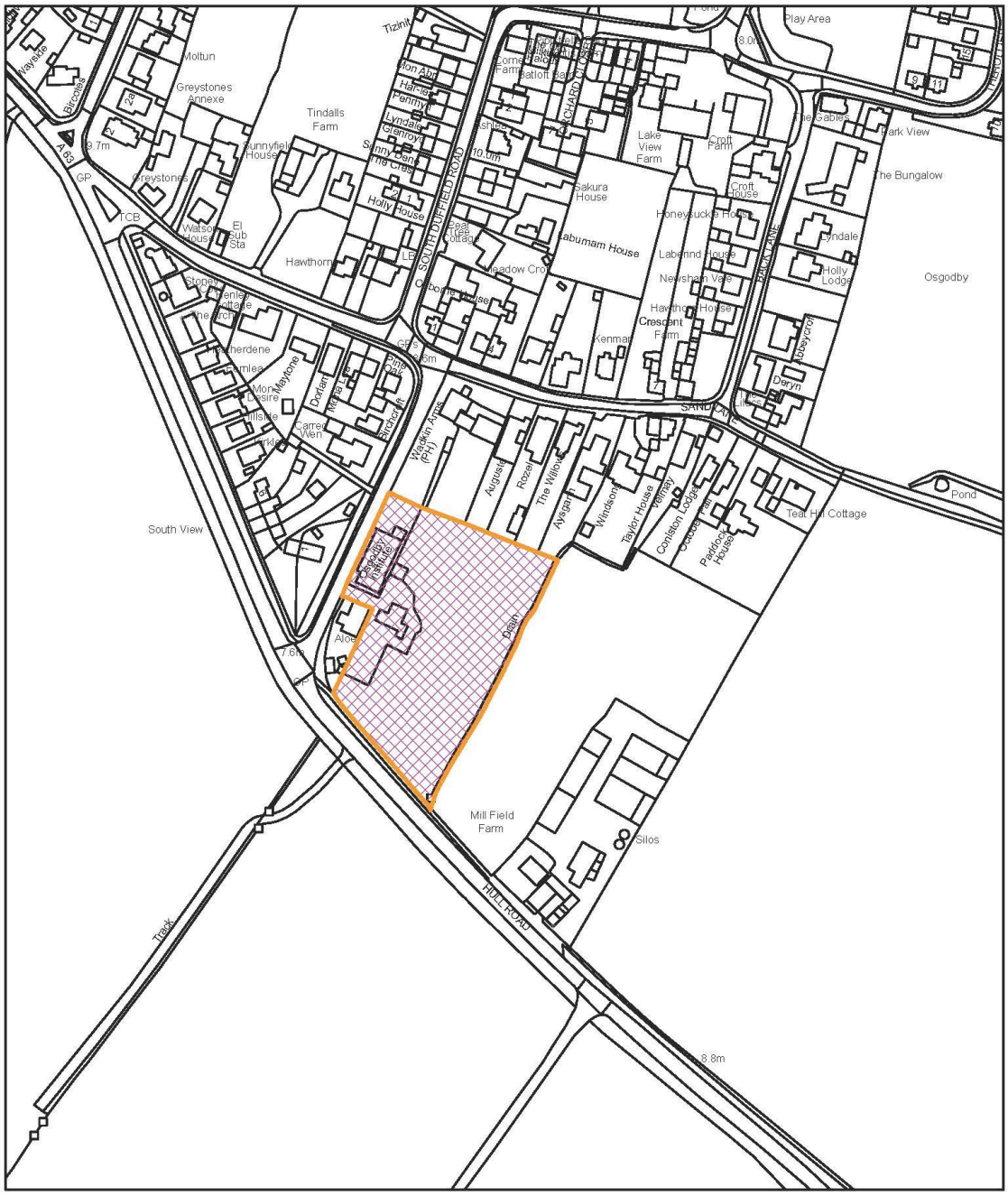
2.9. The benefits include the site being in a relatively sustainable location, where the provision of new housing can strengthen local services and attract new services; the scheme is well designed and of an acceptable density; the proposal makes a significant contribution to needed market housing (great weight is given to this consideration); provides 5 affordable housing units and secures a good a housing mix that will deliver a balanced community with provision for those with mobility problems; the scheme will provide a contribution to upgrade existing areas of recreational open

[1] Policy SP5 of the Core Strategy is out of date because housing need figure it contains is not calculated based on the required standard method.

space; there are net gains for biodiversity and ecological enhancements through the landscape scheme that benefit existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

2.10. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior completion of a s106 legal agreement.

2021/0550/FULM
Land Off Cliffe Road, Osgodby



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N

1:2,500
do not measure from plan

3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:- 2021/0550/FULM | Erection of 25 no dwellings including associated works following demolition of an existing dwelling and its associated buildings and demolition of extension to village hall to facilitate access | Land Off Cliffe Road Osgodby Selby North Yorkshire.

3.2 There are two planning applications for this site that are relevant to the determination of this application:

2015/0131/OUT - Outline Application with all matters reserved for a residential development. Granted 03.12.2015. This has since lapsed.

2022/1299/FUL - Demolition and replacement of extension. Granted 20.12.2022. This remains extant. The demolition of the extension to the south side of the village hall and its replacement with an extension to the north side of the village hall allows for the provision of the site access to the residential development off Cliffe Road.

4.0 Site and Surroundings

4.1. The application site comprises of a broadly rectangular area of land extending to approximately 0.8 hectares in size and is located to the eastern edge of Osgodby, to the north side of Hull Road and east of Cliffe Road. Osgodby is a Designated Service Village, as identified in the Core Strategy, with close links and shared facilities to Barlby, which is located to the opposite side of the A19, which intersects the two settlements in a north south direction. The site lies approximately 3km north east of the principal town of Selby.

4.2 The application site contains a red brick bungalow and its associated outbuildings, along with a single storey extension to the south of the village hall. These would be demolished to provide the site access from Cliffe Road. The site otherwise comprises of an open paddock, which benefits from a post and rail fence to the site frontage with Hull Road; and existing vegetation including hedgerows and trees to the eastern and northern boundaries, which would be retained as part of the proposals.

4.3 To the north of the application site are residential gardens associated with the residential properties fronting Sand Lane, along with a pub garden associated with the Wadkin Arms; to the east of the application site is a collection of farm buildings and its associated open agricultural land; to the south of the application site is Hull Road, beyond which is open agricultural land; to the west of the application site is an existing dwelling and the village hall, beyond which is Cliffe Road and further residential development.

4.4 The application site is located outside the defined development limits of Osgodby and is therefore located within the open countryside in planning policy terms. The site is located within Flood Zone 1, which has a low probability of flooding.

5.0 Description of Proposal

5.1 This application seeks full planning permission for the proposed erection of 25 No. dwellings and associated works following the demolition of an existing dwelling and its associated buildings and the demolition of an extension to the village hall to facilitate access at land off Cliffe Road, Osgodby.

5.2 The site access would be taken from Cliffe Road to the west, following the demolition of the existing brick-built bungalow and its associated outbuildings and the demolition of the extension to the village hall.

5.3 There would be a mix of housing including market and affordable. The scheme provides for semi-detached, detached and maisonette properties, ranging from single storey to 2.5 storey and including 1, 2, 3 and 4 bed properties. The housing mix is as follows:

Market Housing

House Type	Storey Height	No. of Beds	No. of Units	% of Total
Ripponden (Semi-detached)	2	2	2	10%
Dalton (Semi-detached)	2	3	9	65%
Saxton (Semi-detached)	2	3	1	
Allerton (Detached)	2	3	2	
Grassington (Semi-detached)	2.5	3	1	
Bramham (Detached)	2	4	3	25%
Keyingham (Detached)	2	4	2	
				80%

Affordable Housing

House Type	Storey Height	No. of Beds	No. of Units	% of Total
Maltby (Maisonette)	1	1	4	20%
Grassington (Semi-detached)	2.5	3	1	

5.4 The scheme would involve retention of existing landscaping and provision of additional landscaping, principally to the eastern and southern boundaries, which would form the new settlement edge. Landscaping in the form of grassed areas, hedgerows and ornamental planting would also feature in public and private areas within the development site. An attenuation basin is provided within an area of open space to the south of the site, adjacent to Hull Road, where a footpath link to Hull Road would also be provided.

6.0 Planning Policy and Guidance

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

6.2. The Adopted Development Plan for this site is:

- Selby District Core Strategy Local Plan, adopted 22 October 2013
- Those policies in the Selby District Local Plan, adopted on 8 February 2005, which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy

- Minerals and Waste Joint Plan, adopted 16 February 2022

Emerging Development Plan – Material Consideration

6.3. The Emerging Development Plan for this site is

- Selby District Council Local Plan Publication Version 2022 (Reg 19)

On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. A further round of consultation on a revised Regulation 19 Publication Local Plan was undertaken in March 2024.

On 17th January 2025, a report was taken to the Selby and Ainsty Area Committee and Development Plans Committee recommending that work on the emerging Selby District Council Local Plan is ceased. This recommendation was taken to North Yorkshire Council's Executive on 4 February and then North Yorkshire Council's Full Council on 26 February where it was resolved that work on this plan will now cease.

Having regard to the above, no weight is to be applied to the Selby District Council Local Plan publication version 2024 (Reg 19), but some weight may be able to be given to the evidence base.

The North Yorkshire Local Plan - no weight can be applied in respect of The North Yorkshire Local Plan at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

6.4. Relevant guidance for this application is:

- National Planning Policy Framework, December 2024 (as updated February
- 2025)
- National Planning Practice Guidance
- Affordable Housing Supplementary Planning Document, adopted 2014
- Developer Contributions Supplementary Planning Document, adopted 2007
- Osgodby Village Design Statement, December 2009

7.0 Consultation Responses

7.1. The following consultation responses have been received and have been summarised below.

7.2. **Parish Council:** Raise a concern that the dwelling closest to the village hall should have sound mitigation measures/screening.

7.3. **Affordable Housing Officer:** Would have preferred the intermediate to have been shared ownership rather than a First Home, but the proposal for four one bed affordable rent and one three bed intermediate would be acceptable.

7.4. **Archaeologist:** No objections.

7.5. **Conservation Officer:** No comments.

7.6. **Contaminated Land:** No objections subject to conditions relating to topsoil/subsoil testing and reporting of unexpected contamination.

7.7. **Designing Out Crime:** Improvements have been made to the scheme throughout the process to address concerns raised.

7.8. **Ecologist:** No objections, subject to conditions requiring a Biodiversity Enhancement and Management Plan (BEMP) and a Landscape Ecological Management Plan (LEMP).

7.9. **Education Directorate, North Yorkshire Council:** During the course of the application, additional capacity has been provided at the catchment school for this development, Barlby Community Primary School. There would now be sufficient capacity within the school to accommodate the demand arising from this development, so no education contribution is required from this development.

7.10. **Environment Agency:** No comments.

7.11. **Environmental Health:** No objections subject to conditions relating to a scheme to minimise noise, vibration, dust and dirt during construction; construction hours; piled foundations; and securing the recommendations in section 5 of the Noise Impact Assessment (NIA).

7.12. **Landscape Architect:** Amended plans have addressed concerns previously raised and have removed conflict between the drainage storage and the landscaping, but this results in the removal of some hedgerow and trees which form the proposed boundary treatment to Hull Road, which reduces the quality of the Hull Road frontage landscape and open space.

The landscape management plan only provides details for maintaining and keeping the drainage ditch clear to the east side of the site and does not contain wider management of landscape features. We would expect a whole site landscape management plan for all areas outside of private ownership with aims and objectives to be for positive maintenance and management of street trees, boundary hedgerows, maintenance of grassed areas and other landscape planting and trees.

7.13. **Local Highway Authority:** No objections, subject to conditions relating to: new access; detailed plans of roads and footways; construction of roads and footways; provision of approved turning and parking areas; and a construction management plan.

7.14. **Local Internal Drainage Board (Ouse & Derwent):** Advise of requirements for the Board's consent, outside of the planning process. Recommend a minimum 3 metre maintenance strip to the top of the bank of the ordinary watercourse to allow for future maintenance and note that the submitted drawings make provision for this. Set out the drainage hierarchy for surface water and raise no objections to the applicant's

approach to surface water drainage at this site. Note the applicant's approach to foul sewerage and raise no objections to this.

Recommend two conditions relating to the provision of a maintenance strip to the watercourse and for drainage to be in accordance with the submitted documents. Recommend two Informatives relating to maintenance responsibility of the adjoining watercourse and consent to discharge to a watercourse.

7.15. **Lead Local Flood Authority:** No objections, the submitted documents demonstrate a reasonable approach to the management of surface water on the site.

7.16. **Natural England:** No comments.

7.17. **NHS Humber and North Yorks:** There are no GP practices within 2 miles of the proposed development. Therefore, seek a s106 contribution to directly mitigate the primary healthcare impact of this development to the value of £29,469.

7.18. **North Yorkshire Bat Group:** No response.

7.19. **North Yorkshire Fire and Rescue:** No objections.

7.20. **Public Rights of Way Officer:** No comments.

7.21. **Tree Officer:** No objections, subject to conditions requiring root protection of trees.

7.22. **Waste and Recycling Officer:** No objections.

7.23. **Yorkshire Water:** No objections subject to a condition requiring the development to be carried out in accordance with the submitted Flood Risk Assessment.

7.24. **Yorkshire Wildlife Trust:** Concur with comments from Council's Ecologist.

Local Representations

7.25. There have been six representations received, all of which object to the proposed development for the following reasons:

- traffic and highways impacts;
- design and density of housing;
- potential for overlooking and overshadowing of neighbouring properties;

- noise impacts from neighbouring uses (village hall and public house) impacting on amenity of future residents, suggestion of an acoustic fence to the boundary;
- loss of car parking serving the village hall as a result of the new extension to the north side;
- lack of parking provision with the development;
- flood risk and drainage, the proposal would increase flood risk elsewhere.

It should be noted that the above representations were received in response to the initial plans submitted as part of the application and no further representations have been received as a result of amended plans being submitted throughout the application process to confirm whether the amendments have addressed the initial concerns raised or not.

8.0 Environment Impact Assessment (EIA)

8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- The Principle of the Development
- Loss of Agricultural Land
- Minerals
- Housing Density and Mix
- Character and Appearance of the Area, including Landscaping
- Flood Risk and Drainage
- Highway Safety
- Nature Conservation, Protected Species and Biodiversity Net Gain
- Affordable Housing
- Recreational Open Space
- Land Contamination
- Residential Amenity
- Education, Healthcare, Waste/Recycling
- Other Matters

10.0 ASSESSMENT

Principle of Development

10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

10.2 Policy SP1 of the Core Strategy 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.

10.3 Policy SP2 of the Core Strategy sets out the Spatial Development Strategy for the location of future development within the former Selby District area. It directs the majority of new development to the towns ad more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints.

10.4 Selby, as the Principal Town, is the focus for new housing. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing growth can take place appropriate to the size and role of each settlement. The supporting text to Policy SP2 of the Core Strategy at paragraph 4.12 states *"villages which are considered capable of accommodating additional limited growth have been identified as 'Designated Service Villages'".* With regards to Designated Service Villages, paragraph 4.27 states *"The overriding strategy of concentrating growth in Selby and to a lesser extent in the Local Service Centres means that there is less scope for continued growth in villages on the scale previously experienced. However, there is insufficient capacity to absorb all future growth in the three towns without compromising environmental and sustainability objectives. Limited further growth in those villages which have a good range of local services…is considered appropriate"*.

10.5 The Core Strategy designates Osgodby as a Designated Service Village. Policy SP2A(a) of the Core Strategy sets out that Designated Service Villages have some scope for additional residential growth to support rural sustainability. However, the application site is not within the development limits of Osgodby, but adjacent. As such, the application site is classed as being located within the open countryside in planning policy terms. Therefore, Policy SP2A(a) has less relevance, other than to note the settlement hierarchy and indicate the strength of Osgodby as a Designated Service Village. The development limits for Osgodby are adjacent to the northern and eastern boundary of the application site and therefore the site is closely related to the settlement.

10.6 Policy SP2A(c) of the Core Strategy states *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*

10.7 The proposal does not constitute any of the forms of development set out under Policy SP2A(c) of the Core Strategy.

10.8 In light of the above policy context, the proposal for residential development at the application site is contrary to Policy SP2 of the Core Strategy. Substantial weight to the conflict with the development plan (and the related conflict with the intentions of the NPPF) should be given in this case. The proposal should therefore be refused unless material considerations indicate otherwise.

10.9 The application site was identified as a draft allocation in the 2024 Reg 19 publication version of the emerging Local Plan. The draft allocation had a reference of OSGB-D in Policy HG1 and detailed an indicative capacity of 25 dwellings along with a series of other site requirements. The application broadly complies with the site requirements as detailed later in this report, although some s106 financial contributions relating to education are not justified due to a change in circumstances, as set out later in this report. This was one of four draft allocations for Osgodby.

10.10 Work on the emerging Local Plan ceased on the 26 February 2025 and the draft allocations and policies contained within it no longer hold any status as part of an

emerging development plan document. Consequently, they would not be able to have weight attributed to them, but some weight may be able to be given to the evidence base.

Housing Supply

10.11 The NPPF is a material consideration. In this context, currently there is a lack of a five-year housing land supply in the Selby legacy area, due to the increase in housing requirements arising from the NPPF and as such applications are required to make decisions in accordance with Paragraph 11 d of the NPPF and the 'tilted balance' is engaged.

10.12 Paragraph 11d of the NPPF states that in terms of decision-making and the presumption in favour of sustainable development:

"d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

10.13 Footnote 7 notes that the 'assets of particular importance' are: *"habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change".*

10.14 In light of the above, the site does not have any 'assets of particular importance', and it is considered that the scheme accords with the NPPF when taken as a whole. The development is in a sustainable location on the edge of a Designated Service Village and it is making effective use of the land providing a well-designed scheme which is also delivering affordable housing provision. In this context it is considered under Paragraph 11d of the NPPF that the principle of development on the site should be supported.

Sustainability

10.15 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development in determining applications and that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities as such development that does not accord with an up-to-date plan will not normally constitute sustainable development. However, Paragraph 12 of the NPPF makes clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for

decision making. When a planning application conflicts with an up-to-date plan, permission should not normally be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

10.16 Material circumstances in this case are the need for housing supply and the wider sustainability benefits of the proposal.

10.17 In terms of sustainability, the application site abuts the development limits of Osgodby and is viewed as a natural extension to the village. The Core Strategy notes that Osgodby has close links and shared facilities to Barlby, which is located to the opposite side of the A19. The settlements together served by a range of local facilities, including the Barlby Community Primary School, Barlby High secondary school, a healthcare facility, a convenience store and two village halls/meeting rooms. There is also a garden centre, public houses and churches. Their proximity to Selby town means that further bus routes and a train station are also accessible. The National Cycle Network route 65 and the Trans-Pennine Trail also pass though Barlby. Despite the application site being outside of the development limits, these services are reasonably accessible on foot.

10.18 Paragraph 8 of the NPPF outlines that there are three overarching objectives which are interdependent and need to be considered in assessing whether a scheme is sustainable development – the economic objective, the social objective, and the environmental objective. Paragraph 9 of the NPPF notes that planning policies and decisions should play an active role in guiding development towards sustainable solutions but in doing so should take account of local circumstances to reflect the character needs and opportunities of each area. Paragraph 10 of the NPPF states that *"sustainable development should be pursued in a positive way and is at the heart of the framework is the presumption in favour of sustainable development"*, under Paragraph 11 of the NPPF.

10.19 It is noted that the following benefits would arise from development:

Economic

The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposal will bring additional residents to the area who in turn will contribute to local economies through supporting the existing local facilities and increasing the demand for new facilities that are capable of being sustained. The proposals could enhance provision of local workforce for the employees of nearby businesses in the larger settlements, although this will depend upon employee skill matches and vacancy requirements.

Social

As well as market housing the proposal will deliver affordable housing (5 units) to meet a defined need in the area and other housing types including homes designed for wheelchairs users. In addition, the scheme will make contributions to provision of new or upgraded recreational open space facilities in the locality and health care. The site is also able to be delivered in the short term given this is a full application and will contribute to the five-year housing land supply requirements.

Environmental

The proposal will take into account environmental issues such as climate change ecology/biodiversity and will deliver environmental benefits in the form of off-site local open space provision/enhancement. The proposal would provide housing outside the

development limits of the designated service village, but this is one of the most sustainable settlements in the former district with close proximity to other designated service villages and Selby town centre, with walking and cycling connections. In addition, all properties on the development will have EV charging provision and cycle storage via garages and will be designed with energy efficiency in mind.

10.20 The proposal would provide 25 dwellings to boost the five-year housing land supply and would provide economic, social and environmental benefits. All the above factors weigh in favour of the development. Whilst there are some negative aspects to the development, given that Paragraph 11d of the NPPF is engaged as a result of the housing land supply position, the adverse impacts of granting the permission would not significantly and demonstrably outweigh the benefits of the scheme, when assessed against the Framework taken as a whole. The primary importance being sustainable housing provision which these accords with. Therefore, Planning Officers regard this site as being acceptable for new residential development.

Loss of Agricultural Land

10.21 Policy SP18 of the Core Strategy relates to 'Protecting and Enhancing the Environment' and states *"The high quality and local distinctiveness of the natural and man-made environment will be sustained by… [amongst other things] …steering development to areas of least environmental land agricultural quality".*

10.22 This accords with paragraph 187 of the NPPF, which requires planning policies and decisions to contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystems services, including the economic and other benefits of the best most versatile agricultural land, and of trees and woodland.

10.23 Agricultural land is classified using grades 1, 2, 3a, 3b, 4 and 5. Best and Most Versatile (BMV) agricultural land is defined as land in grades 1, 2 and 3a of the Natural England Agricultural Land Classification (ALC). The land within the application site is classified as being Grade 2 (Very Good) in accordance with the ALC. However, this mapping is intended for strategic and regional purposes only and is not suited for interpretation at the field scale. The application does not include an ALC survey at field scale. The site is therefore assumed to be BMV agricultural land.

10.24 The site area means Natural England is not a statutory consultee for the loss of agricultural land. The scale of loss of best and most versatile agricultural land would result in minor harm to the agricultural economy in the area as well as food self-sufficiency. The loss of agricultural land is contrary Policy SP18 of the Core Strategy and NPPF paragraph 187 b). This must be weighed in the planning balance.

Minerals

10.25 The site is located within a mineral safeguarding area for brick, clay, sand and gravel as designated by Policy S01 the Minerals and Waste Joint Plan. Policy S02 of the Minerals and Waste Joint Plan states:

"Within the Safeguarded Surface Minerals Resource areas shown on the Policies Map, permission for development other than minerals extraction will be granted where:

i) It would not sterilise the mineral or prejudice future extraction; or

ii) The mineral will be extracted prior to the development (where this can be achieved without unacceptable impact on the environment or local communities), or

iii) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or

iv) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource; or

v) The non-mineral development is of a temporary nature that does not inhibit extraction within the timescale that the mineral is likely to be needed; or

vi) It constitutes 'exempt' development (as defined in the Safeguarding Exemption Criteria list), as set out in paragraph 8.55).

Applications for development other than mineral extraction in Safeguarded Surface Minerals Resource areas should include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development."

10.26 The proposal for housing does not fall within any of the exemptions and as such a minerals assessment is required. A minerals assessment has not been submitted in support of the application, however, given the site was identified in the emerging local plan as an allocation, and the proximity of the site to residential properties and local facilities such as the village hall, it is likely that any mineral extraction from this site would have an unacceptable impact on the environment and the local community, This therefore has a neutral impact on the proposal.

10.27 The site is identified on the Coal Authority interactive map as lying within a low-risk area for which the standing advice is to impose an informative to any planning permission granted to draw this risk to the developer's attention.

Housing Density and Mix

Density

10.28 Saved Policy H2B of the Selby District Local Plan states *"Proposals for residential development will be expected to achieve a minimum net density of 30 dwellings per hectare in order to ensure the efficient use of land. Higher densities will be required where appropriate particularly within the market towns and in locations with good access to services and facilities and/or good public transport. Lower densities will only be acceptable where there is an overriding need to safeguard the existing form and character of the area, or other environmental or physical considerations apply"*.

10.29 Paragraph 7.80 of the Core Strategy states "*The quality of design in its local context is more important than relying on a minimum housing density figure to benchmark development……. Therefore, the Council does not propose to set a development density figure in this strategic plan"*. Policy SP19 states residential development should *"Positively contribute to an area's identity and heritage in terms of scale, density and layout"*.

10.30 The former emerging local plan allocation OSGB-D detailed an indicative capacity of 25 dwellings for the site. The application site extends to approximately 0.8 hectares in size and proposes 25 dwellings. This density is considered acceptable.

Mix

10.31 Policy SP8 of the Core Strategy specifically relates to 'Housing Mix' and states *"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."*

10.32 Paragraph 10.36 of the Housing and Economic Development Needs Assessment (HEDNA) dated October 2020 states: *"The 'market' is to some degree a better judge of what is the most appropriate profile of homes to deliver at any point in time, and demand can change over time linked to macro-economic factors and local supply."* The wording of the HEDNA intends to provide an element of flexibility in the precise mix put forwarded within applications. The table below from the HEDNA shows the need for sizes of homes per tenure type.

Type of Housing	Size of House			
	1 bed	2 bed	3 bed	4+ bed
Market	0-10%	25-35%	40-50%	15-25%
Affordable home ownership	10-20%	40-50%	30-40%	0-10%
Affordable housing (rented)	30-40%	35-45%	15-25%	0-10%

10.33 The proposed development would be a mix of housing including market and affordable. The scheme provides for semi-detached, detached and maisonette properties, ranging from single storey to 2.5 storey and including 1, 2, 3 and 4 bed properties. The proposed housing mix is as follows and is considered to be acceptable. Affordable Housing provision will be considered in more detail in a subsequent section of this report.

Market Housing				
House Type	**Storey Height**	**No. of Beds**	**No. of Units**	**% of Total**
Ripponden (Semi-detached)	2	2	2	10%
Dalton (Semi-detached)	2	3	9	65%
Saxton (Semi-detached)	2	3	1	
Allerton (Detached)	2	3	2	
Grassington (Semi-detached)	2.5	3	1	
Bramham (Detached)	2	4	3	25%
Keyingham (Detached)	2	4	2	
				80%
Affordable Housing				
House Type	**Storey Height**	**No. of Beds**	**No. of Units**	**% of Total**
Maltby (Maisonette)	1	1	4	20%

M4(3)

10.34 The HEDNA shows there is predicted to be *"A 72% increase in the number of people aged 65+ with dementia and a 60% increase in those aged 65+ with mobility*

problems (2020-40)". It recommends 5% of dwellings should meet Building Regulations M4(3) – wheelchair user dwellings. The 5% figure is increased to 6% to account for minor development not making such provision. It is considered necessary to secure such units to ensure housing meets future needs. The application proposes two dwellings to be comply with M4(3), which is considered acceptable and would need to be secured by s106 legal agreement.

Character and Appearance of the Area, including Landscaping

10.35 Saved Policy ENV1 of the Selby District Local Plan requires development proposals to take account of (1) the effect upon the character of the area and (4) the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping. Policy SP18 of the Core Strategy seeks to protect and enhance landscape character and setting of areas of acknowledged importance. Policy SP19 of the Core Strategy requires proposals for new development to contribute to enhancing community cohesion by achieving high quality design and having regard to local character, identity, and context of its surroundings. Specifically, Policy SP19 I of the Core Strategy requires new and existing landscaping to be incorporated as an integral part of the design of the schemes.

10.36 These local policies accord with paragraph 135 of the NPPF which seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not discouraging appropriate innovation or change; and paragraph 187 of the NPPF indicates that the intrinsic character and beauty of the countryside should be recognised.

10.37 The topography of the site is relatively flat and this would remain as such following the introduction of the proposed development. The proposed dwellings would be laid out around an internal spine road, with areas for parking and landscaping to the front of dwellings and rear garden areas surrounded by either 1.8-metre-high hit-and-miss fences or 1.2-metre-high post and rail fences. Dwellings to the Hull Road frontage would be set back from the site boundary, in keeping with the local context, and would feature 1.8-metre-high brick walls to the southern property boundaries which would be visible from Hull Road. An attenuation basin is provided within an area of open space to the south of the site, adjacent to Hull Road, where a footpath link to Hull Road would also be provided. Property boundaries with the village hall to the west would comprise of a 1.8-metre-high acoustic fence.

10.38 The scheme provides for a mix of housing, including semi-detached, detached and maisonette properties, ranging from single storey to 2.5 storey, although it is noted that the single storey housing referred to is in the form of maisonettes, so has the appearance of a two-storey property within the development. Materials to be used for the external surfaces of the properties would be consistent throughout the development site, being Wolds Autum Blend (or similar) for the walls and Russel Grampian Grey concrete tile (or similar) for the roof. These are detailed on the materials plan and can be secured by way of condition.

10.39 The scheme would involve retention of existing landscaping and provision of additional landscaping, principally to the eastern and southern boundaries, which would form the new settlement edge. The site is viewed as a natural extension to the village and the utilisation and enhancement of existing field boundaries create defensible boundaries and a clear new boundary the village. Landscaping in the form of grassed areas, hedgerows and ornamental planting would also feature in public and private areas within the development site. In the open space to the south of the site, some trees would be provided along the boundary along with some shallow rooting shrubs, taking account of the presence of the attenuation basin in this location.

10.40 The layout, scale, appearance and landscaping of the proposed development is considered to be acceptable having regard to the context of the locality and the details can be secured by way of conditions. The proposed development would therefore be acceptable in terms of its design and impact on the character and appearance of the area in accordance with saved Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and national planning policy contained within the NPPF.

Flood Risk and Drainage

10.41 The most up-to-date policy in relation to flooding matters is the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of the NPPF.

10.42 The application site is located within Flood Zone 1 which has a low probability of flooding.

10.43 The application has been accompanied by a Flood Risk Assessment and drainage strategy. In terms of surface water drainage, this confirms that infiltration is not possible due to high groundwater and while a watercourse exists near to the site, gravity discharge to this is not available. Therefore, it is proposed that surface water will discharge to the public surface water sewer via storage with restricted discharge of 3.5 litres/second. In terms of foul water, this is proposed to discharge to the public foul water sewer.

10.44 The Lead Local Flood Authority, the local Internal Drainage Board and Yorkshire Water have been consulted on the proposals and have raised no objections, subject to conditions.

10.45 The local Internal Drainage Board have noted that the proposed development incorporates a 3-metre-wide maintenance strip to the top of the bank of the ordinary watercourse to allow for future maintenance and recommend a condition relating to the provision of this in accordance with the submitted documents. They also recommend two informatives relating to maintenance responsibility of the adjoining watercourse and highlighting consent requirements to discharge to a watercourse for the avoidance of doubt.

10.46 Subject to the aforementioned conditions, and notwithstanding representee concerns, it is considered the proposals are acceptable in terms of their impact on flood risk and drainage in accordance with the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of the NPPF.

Highway Safety

10.47 Saved Policies ENV1(2), T1 and T2 of the Selby District Local Plan require development proposals to have a suitable access and no detrimental impact on the existing highway network. This accords with the NPPF, which requires development proposals to have a safe and suitable access and only supports refusal of development proposals on highway grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios (paragraph 116).

10.48 The site access would be taken from Cliffe Road to the west, following the demolition of the existing brick-built bungalow and its associated outbuildings and the demolition of the extension to the village hall.

10.49 The Local Highway Authority have reviewed the application and have raised no objections subject to conditions relating to the new access; detailed plans of roads and footways; construction of roads and footways; provision of approved turning and parking areas; and a construction management plan.

10.50 Subject to the aforementioned conditions, and notwithstanding representee concerns, it is considered that the proposed development would not have an adverse impact on highway safety in accordance with saved Policies ENV1, T1 and T2 of the Selby District Local Plan and national planning policy contained within the NPPF.

Nature Conservation, Protected Species and Biodiversity Net Gain

10.51 Saved Policy ENV1(5) of the Selby District Local Plan requires proposals to take account of the potential loss or adverse effect upon, inter alia, trees and wildlife habitats. Policy SP18 of the Core Strategy seeks to safeguard the natural environment and promote effective stewardship of the District's wildlife by, amongst other things, ensuring developments retain protect and enhance features of biological interest and provide appropriate management of those features and that unavoidable impacts are appropriately mitigated and compensated for on and off-site; and ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

10.52 This is reflected in the national policy at paragraph 187 of the NPPF, which requires planning decisions to contribute to and enhance the natural and local environment by amongst other things, protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, and minimising impacts on and providing for net gains for biodiversity.

10.53 It should be noted that the application was submitted prior to 12 February 2024 and is therefore not subject to statutory biodiversity net gain.

10.54 The application has been supported by an 'Ecological Appraisal' prepared by Futures Ecology. This has been reviewed by the Council's Ecologist who has advised that they have no objections to the application, subject to conditions requiring a Biodiversity Enhancement and Management Plan (BEMP) and a Landscape Ecological Management Plan (LEMP). Yorkshire Wildlife Trust have concurred with the comments from the Council's Ecologist.

10.55 Subject to the aforementioned conditions, it is considered that the proposed development would not have any adverse impact on ecological considerations and would provide net gains for biodiversity in accordance with saved Policy ENV1 of the Selby District Local Plan, Policy SP18 of the Core Strategy, national planning policy contained within the NPPF, the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017.

Affordable Housing

10.56 Policy SP9 of the Core Strategy relates to 'Affordable Housing' and seeks to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more, The tenure split and the type of housing being sought will be based on the Council's latest evidence on local need and an appropriate agreement will be secured at the time of granting planning permission to secure the long-term future of affordable housing.

The actual amount of affordable housing, or commuted sum payment to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

10.57 The Affordable Housing Supplementary Planning Document (2014) provides detailed guidance for securing affordable housing. Paragraph 9.5 of the Affordable Housing Supplementary Planning Document (2014) confirms the Local Planning Authority can reduce the affordable housing percentage required if a viability appraisal demonstrates 40% is unviable.

10.58 The Affordable Housing Supplementary Planning Document (2014) states *"The latest Strategic Housing Market Assessment (2009) ("SHMA") identifies the scale of need for affordable housing in the District over the Local Plan period. The SHMA establishes an overall target of 30-50% intermediate housing and 50-70% social rented housing. To meet identified need, affordable housing needs to be the right kind of housing in the right locations."*

10.59 The more recent Housing and Economic Development Needs Assessment (HEDNA) dated October 2020, pages 13-15 and 125 of the state:

- "When looking at the need for affordable homes to rent, we suggest a need for 141 affordable homes per annum."
- "The majority of the rented need is for social rented housing, although there is also a role for affordable rent."
- "It is not recommended that the Council have a rigid policy for the split between social and affordable rented housing."
- "There are some households likely to be able to afford to rent privately but who cannot afford to buy a suitable home. However, there is also a potential supply of homes within the existing stock that can contribute to meeting this need. It is thus difficult to robustly identify an overall need for affordable home ownership products."
- "If the Council does seek to provide 10% of housing as affordable home ownership (the default figure suggested in the NPPF), then it is suggested that shared ownership is the most appropriate option. This is due to the lower deposit requirements and lower overall costs (given that the rent would also be subsidised)."
- "There is no basis to increase the provision of affordable home ownership above the 10% figure currently suggested in the NPPF and indeed does provide evidence that the 10% figure could be challenged if the Council wished to do so."
- "However, it does seem that many households in Selby are being excluded from the owner-occupied sector. The analysis would, therefore, suggest that a key issue in the District is about access to capital (e.g. for deposits, stamp duty, legal costs) as well as potentially mortgage restrictions (e.g. where employment is temporary) rather than simply the cost of housing to buy." (page 125).

10.60 Paragraph 65 of the NPPF permits affordable housing to be sought on major developments such as this. Footnote 9 of the NPPF requires consideration of Paragraph 66 of the NPPF which expects that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Footnote 31 of the NPPF states *"The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May*

2021, no longer applies. Delivery of First Homes can, however, continue where Local Planning authorities judge that they meet local need."

10.61 Policy SP9 of the Core Strategy provides a broad basis for securing affordable housing and is consistent with the NPPF. The Selby Local Plan and CIL Viability Assessment (August 2022) indicates that a minimum of 20% affordable housing should be sought for this area being a higher value area.

10.62 Affordable housing and viability matters were explored in an appeal decision dated 30th January 2025 for a site in Hambleton reference APP/U2750/W/24/3347885. The inspector set out:

- The maximum 40% affordable housing in Policy SP9 is derived from an assessment in around 2009.
- However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (Selby Local Plan & CIL Viability Assessment (2022) to inform Policy HG7 in the emerging Selby Local Plan, and this says it considers a greenfield delivery of 20% affordable housing to be viable in this area.
- Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report when compared to that informing the Core Strategy, the Inspector considered this report constitutes a material consideration to which was given significant weight in his assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks 'up to a maximum' of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.
- The appellants viability appraisal showed with an 18% profit, 10% affordable housing was viable. The Council considered 30% affordable housing was viable due mainly to differing opinions regarding gross development value and abnormal costs.
- Such appraisals involve subjective judgements. Neither is necessarily wrong. The appellants proposal of 10% would be in line with the Aspinall Verdi report. That report did not say 10% is the starting point for negotiations for a higher percentage. Such an approach would remove any certainty or confidence from the process.
- The Inspector favoured the appellants use of historic sales values from the specific settlement, adjusted by index linking, rather than those from nearby villages.
- The Inspector found in favour of the appellants approach to viability.
- The Inspector dismissed the Council suggestion that affordable housing levels be revisited at reserved matters stage because there would be no need to have undertaken such work at outline stage and in his opinion delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward.

10.63 The same matter was considered in an appeal decision dated 20th February 2025 at land east of Broadacres, Mill Lane, Carlton reference APP/U2750/W/24/3347833. The Inspector considered *"11. Overall, though I note that the appellant and the Council have commissioned viability assessments which both suggest more than 10% is*

achievable, I consider that only a 10% contribution is necessary to meet policy SP9 in this regard. This would accord with the conclusions of the recent appeal where the Inspector Ref: APPU2750/W/24/3347885 considered that there is nothing in the Aspinall Verdi report to suggest 10% should be the starting point from which negotiations for a higher figure should begin. In addition, an appeal decision relating to a development in Hemingbrough noted that although SP9 required a maximum of 40%, the 20% provided by the development would be acceptable as it would reflect the eLP informed by the Viability Report. There is no suggestion in that decision that it was necessary to demonstrate if a greater proportion could be achieved."

10.64 The application proposes 20% affordable housing (5 units), which aligns with the most up to date viability evidence that supported the now ceased emerging local plan. This is in accordance with Policy SP9 of the Core Strategy.

10.65 The application proposes four one-bed affordable rent and one three-bed first home. Following consultation with the Affordable Housing Officer, this is considered to be an acceptable mix having regard to the HEDNA and can be secured by s106 legal agreement.

Recreational Open Space

10.66 Saved Policy RT2 of the Selby District Local Plan relates to 'Open Space Requirements for New Residential Developments' and states *"Proposals for new residential development comprising 5 or more dwellings will be required to provide recreation open space at a rate of 60 square metres per dwelling…For schemes of more than 10 dwellings but less than 50 dwellings, the following options would be available subject to negotiation, and the existing level of provision in the locality; (i) provide open space within the site; (ii) provide open space within the locality; (iii) provide open space elsewhere; (iv) 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."*

10.67 The NPPF at paragraphs 96 and 98 advises that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs for example through the provision of safe and accessible green infrastructure and the provision and use of shared spaces such as open spaces. Paragraph 103 reinforces the importance of access to open space, sport and physical activity for health and wellbeing. Policies should be based on robust and up to date assessment of needs and opportunities for new provision.

10.68 In this case given the size of the site, a commuted sum is necessary. This can be spent to either upgrade existing public open space or contribute towards providing new public open space. The Developer Contributions Supplementary Planning Document costs this at £991 per dwelling for upgrading existing public open space or £1095 per dwelling for the provision of new public open space. In this instance, the developer has identified an area of existing public open space which could be upgraded, that being at the junction of South Duffield Road/The Hollies, and therefore a contribution of £22,775 is proposed to be secured by s106 legal agreement for this purpose.

10.69 Subject to the aforementioned s106 legal agreement, the proposal is considered to be acceptable in respect of recreational open space in accordance with saved Policy RT2 of the Selby District Local Plan and national policy contained within the NPPF.

Land Contamination

10.70 Saved Policy ENV2 of the Selby District Local Plan requires proposals for development which would give rise to, or be affected by, unacceptable contamination or other environmental pollution, to not be granted unless satisfactory remedial, or preventative measures are incorporated as an integral element in the scheme. Where there is a suspicion that the site might be contaminated, planning permission may be granted subject to conditions to prevent the commencement of development, until a site investigation and assessment has been carried out and development has incorporated all measures shown in the assessment to be necessary.

10.71 The application has been supported by a Preliminary Geoenvironmental Investigation prepared by Lithos. The Council's Contaminated Land Officer has reviewed the application and has advised there are no objections to the proposed development subject to conditions relating to topsoil/subsoil testing and reporting of unexpected contamination.

10.72 Subject to the aforementioned conditions, it is considered that the proposed development would be acceptable in terms of land contaminated in accordance with Policy ENV2 of the Selby District Local Plan and national planning policy contained within the NPPF.

Residential Amenity

10.73 Saved Policy ENV1(1) of the Selby District Local Plan requires development proposals to take account of the amenity of adjoining occupiers.

10.74 These local policies accord with paragraph 135 of the NPPF which seeks to ensure a high standard of amenity for existing and future users.

10.75 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

10.76 The proposed development is well laid out with suitable separation distances between the proposed dwellings and to existing neighbouring dwellings to the north and west. This ensures that the proposed development would not have any adverse impacts of overlooking, overshadowing, or oppression.

10.77 Property boundaries with the village hall to the west would comprise of a 1.8-metre-high acoustic fence to mitigate any potential future noise issues from the use of the village hall on those properties adjacent.

10.78 The Council's Environmental Health Officer has reviewed the application and has raised no objections subject to conditions relating to a scheme to minimise noise, vibration, dust and dirt during construction; construction hours; piled foundations; and securing the recommendations in section 5 of the Noise Impact Assessment (NIA), which principally relate to ensuring that those properties in close proximity to Hull Road are not impacted by noise from the road by way of mitigation measures including glazing and ventilation.

10.79 The scheme is considered to be well designed allowing for appropriate separation distances between plots and appropriate sized gardens. The layout allows for pedestrian and cycle links to both Cliffe Road to the west and Hull Road to the south.

10.80 Subject to the aforementioned conditions, it is considered that the impact on residential amenity would be acceptable in accordance with saved Policy ENV1of the Selby District Local Plan and national planning policy contained within the NPPF.

Furthermore, it is considered that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

S106 Contributions

10.81 Saved Policy CS6 of the Selby District Local Plan relates to 'Developer Contributions to Infrastructure and Community facilities' and states *"The District Council will expect developers to provide for or contribute to the provision of infrastructure and community facility needs that are directly related to a development, and to ensure that measures are incorporated to mitigate or minimise the consequences of that development".*

10.82 Policy SP12 of the Core Strategy relates to 'Access to Services, Community Facilities and Infrastructure' and states *"Where infrastructure and community facilities are to be implemented in connection with new development, it should be in place or provided in phase with development and scheme viability. Infrastructure and community facilities should be provided on site, but where this is technically unachievable or not appropriate for other justified reasons, off-site provision or a financial contribution towards infrastructure and community facilities will be sought".*

10.83 The Developer Contributions Supplementary Planning Document provides further guidance regarding contributions towards education facilities, healthcare facilities and waste and recycling facilities, amongst others.

10.84 Paragraph 35 of the NPPF requires plans to set out the contributions expected from development. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requires planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

10.85 In terms of education, NYC's Children and Young People's Service have advised additional capacity has been provided at the catchment school for this development, Barlby Community Primary School, recently. There would now be sufficient capacity within the school to accommodate the demand arising from this development, so no education contribution is required from this development.

10.86 In terms of healthcare, the NHS Humber and North Yorkshire Integrated Care Board have advised there are no GP practices within 2 miles of the proposed development and on this basis they seek a financial contribution of £29,469, to directly mitigate the primary healthcare impact of this development of 25 dwellings.

10.87 In terms of waste and recycling, the Developer Contributions Supplementary Planning Document requires the developer to pay for 4no. wheeled bins per property – 1 No. 180 litre refuse bin; 1 No. 240 litre green waste bin; and 2 No. 240 litre recycling bins at a price of £65 per dwelling. This equates to a contribution of £1,625 for this development of 25 dwellings.

10.88 The aforementioned contributions are justified given they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The appropriate triggers for payment are shown in the contributions table in the recommendation section of this report. The Applicant is agreeable to the contributions which are to mitigate the healthcare and waste and recycling impacts of the proposal in accordance with saved Policy CS6 of the Selby District Local Plan, Policy SP12 of the Core Strategy and the Developer Contributions Supplementary Planning Document.

10.89 In summary, the following Heads of Terms have been agreed with the Applicant for this application.

Table 1		
Category/Type	**Contribution**	**Amount & Trigger**
Affordable Housing	20% of the total number of dwellings (5 units): • 4 one-bed affordable rent • 1 three bed First Home	Delivery of 5 affordable housing units
M4(3) Dwelling	6% (2 units)	Delivery of 2 M4(3) dwellings
Recreational Open Space	Contribution towards upgrade of existing public open space at the junction of South Duffield Road/The Hollies	£22,775 to be paid prior to commencement of development (unless agreed otherwise)
Healthcare	Contribution to primary healthcare provision	£29,469 to be paid prior to the occupation of the first dwelling (unless agreed otherwise)
Waste and Recycling	£65 per dwelling	£1,625 to be paid prior to the occupation of the first dwelling (unless agreed otherwise)

10.90 It is considered that the above s106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

Other Matters

Section 149 of The Equality Act 2010

10.91 Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.92 The proposed development of the site would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics.

Other *Matters raised by Representees*

10.93 Representations have raised concerns regarding the loss of car parking serving the village hall as a result of the new extension to the north side. This was assessed under planning application reference 2022/1299/FUL for the demolition of the existing

extension to the south side of the village hall and its replacement with a new extension to the north side of the village hall, granted on 20.12.2022.

11.0 PLANNING BALANCE AND CONCLUSION

11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

11.2 The proposal is contrary to Policy SP2 of the Core Strategy as it involves residential development outside the defined development limits of any settlements and in the open countryside in planning policy terms.

11.3 The proposal should therefore be refused unless material considerations indicate otherwise.

11.4 The NPPF is a material consideration. The Local Planning Authority cannot demonstrate a five-year supply of housing land as required by the NPPF. Therefore, the policies most important for determining the application, SP2 and SP5, are out of date as set out in Paragraph 11 of the NPPF.

11.5 Paragraph 11d of the NPPF states that in terms of decision-making and the presumption in favour of sustainable development:

"d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

11.6 The proposal complies with paragraph 11d)i because no NPPF policy that protects areas or assets of particular importance provides a strong reason for refusing the development proposed. The requirements of paragraph 11d)ii are more detailed as set out below. It requires consideration of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

11.7 The adverse impacts include the modest scale of loss of best and most versatile agricultural land which would result in minor harm to the agricultural economy in the area as well as food self-sufficiency. In addition, some moderate adverse localised landscape and visual effects of the development encroaching into the countryside; and conflict with the development plan.

11.8 Neutral matters include the lack of conflict with mineral policies; density of development; the site specific flood risk implications are acceptable and suitable drainage can be controlled by condition; there would be no harm arising from highway access or capacity issues; there would be no harm to protected species or any harm to designated sites; the site can be made safe from contamination; residential

amenity would not be harmed; required education, healthcare and waste and recycling contributions can be secured to ensure no detriment is caused.

11.9 The benefits include the site being in a relatively sustainable location, where the provision of new housing can strengthen local services and attract new services; the scheme is well designed and of an acceptable density; the proposal makes a significant contribution to needed market housing (great weight is given to this consideration); provides 5 affordable housing units and secures an acceptable housing mix that will deliver a balanced community with provision for those with mobility problems; the scheme will provide a contribution to upgrade existing areas of recreational open space; there are net gains for biodiversity and ecological enhancements through the landscape scheme that benefit existing and future residents; economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

11.10 The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior completion of a s106 legal agreement.

12.0 RECOMMENDATION

12.1 It is recommended that Planning Committee GRANT planning permission subject to the conditions listed below and the prior completion of a s106 legal agreement in accordance with the details set out in Table 1.

Conditions

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

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

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

    - P001 Rev A - Location Plan
    - Z055.002Y Rev Z – Proposed Site Layout
    - Z055.008A – House Type Pack, October 2024
    - Z055.004 Rev A – Materials Plan
    - Z055.005 Rev C – Boundary Treatments Plan
    - H24-0008_001C – Landscape Masterplan
    - 0015 Rev P02 – s104 Drainage Layout
    - 0016 Rev P01 – Plot Drainage Layout
    - 0118 Rev P01 - Flood Routing Layout

    Reason: For the avoidance of doubt.

03. Within three months of commencement of development a detailed landscape scheme (in accordance with the approved Landscape Masterplan) shall be submitted to and approved in writing by the Local Planning Authority. This shall include the species, stock size, density/spacing, and position of trees, shrubs and other plants; and seed

mixes, sowing rates and mowing regimes. It will also include details of ground preparation and tree planting details, including means of support and protection and watering. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing plants that are shown to be retained within the approved landscape scheme.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species across the site, since the landscape scheme is integral to the setting and amenity of the development and the immediate area and in order to comply with saved Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy.

04. Prior to the occupation of the first dwelling, a landscape maintenance and management plan including long term design objectives, management responsibilities and maintenance schedules for all communal landscape areas shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include measures for 10 years maintenance following the first 5 years from establishment. The landscape management plan shall be carried out as approved.

Reason: To ensure the scheme is developed and managed for future years in accordance with the approved detail and thereafter maintained and in order to comply with saved Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy.

05. The development shall be carried out in strict accordance with the details contained within the submitted Flood Risk Assessment (reference 44291-001 Issue 2) prepared by Eastwood, dated 7th October 2024.

Reason: In the interests of flood risk and drainage.

06. A strip of land 3 metres wide adjacent to the top of the bank of the watercourse on the eastern boundary of the site shall be kept clear of all new buildings, structures, gates, walls, fences, trees and planting unless agreed otherwise in writing with the Ouse & Derwent Internal Drainage Board.

Reason: To maintain access to the watercourse for maintenance or improvements.

07. The development must not be brought into use until the access to the site at Land off Cliffe Road, Osgodby has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements:

The access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number A1 and the following requirements.

- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.
- Measures to enable vehicles to enter and leave the site in a forward gear.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

08. There must be no access or egress by any vehicles between the highway and the application site at INS Land Off, Cliffe Road, Osgodby until splays are provided giving clear visibility of 43m metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

    Reason: In the interests of highway safety.

09. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

    The development must only be carried out in compliance with the approved engineering drawings.

    Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

10. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

    The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

    Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

11. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Land off Cliffe Road, Osgodby have been constructed in accordance with the details approved in writing by the Local

Planning Authority. Once created these areas must 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.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

    Reason: In accordance with Policy ENV1 of the Selby District Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

13. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

    The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
    - details of any temporary construction access to the site including measures for removal following completion of construction works;
    - restriction on the use of Land off, Cliffe Road, Osgodby access for construction purposes;
    - wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
    - the parking of contractors' site operatives and visitor's vehicles;
    - areas for storage of plant and materials used in constructing the development clear of the highway;
    - details of site working hours;
    - details of the measures to be taken for the protection of trees; and
    - contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

    Reason: In the interest of public safety and amenity.

14. Prior to the commencement of development, a Biodiversity Enhancement Management Plan (BEMP) for the site detailing how the proposed on-site compensation enhancement measures can be delivered as set out in the 'Ecological Appraisal' prepared by Futures Ecology. This should include specific locations of bat roost and bird nest boxes and shall be submitted to the Local Planning Authority for approval in writing. The approved BEMP shall be implemented in full in the first available planting season following the commencement of the development and the on-site habitats shall thereafter be retained and maintained in accordance with the management prescriptions set out in the BEMP.

    Reason: To ensure the scheme is developed and managed for future years in accordance with the approved detail and thereafter maintained and in order to comply

with saved Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy.

15. Prior to commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority. Once approved, the LEMP shall be implemented in accordance with the approved details for the lifetime of the development.

    The LEMP shall include, but not be limited, to arrangements for the following:
    - description and evaluation of features to be managed;
    - ecological trends and constraints on site that might influence management;
    - aims and objectives of management;
    - appropriate management options for achieving aims and objectives;
    - prescriptions for management actions;
    - preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
    - details of the body or organization responsible for implementation of the plan;
    - ongoing monitoring and remedial measures;
    - details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery;
    - how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the approved scheme (where the results from monitoring show that conservation aims and objectives of the Plan are not being met).

    Reason: In the interests of ecology and in order to comply with saved Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and national planning policy contained within the NPPF.

16. No topsoil/subsoil is to be reused or imported to the site, for use in gardens, until it has been tested for contamination. The analysis results, and verification of the suitability of the material for the proposed development, must be submitted to and approved in writing by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

    Reason: To ensure that topsoil/subsoil does not pose a risk to future users of the land and the wider environment having regard to saved Policy ENV2 of the Selby District Local Plan.

17. In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination having regard to saved Policy ENV2 of the Selby District Local Plan.

18. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.

    Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework, the Noise Policy Statement for England (NPSE), Policy SP19 of the Core Strategy and saved Policy ENV2 of the Selby District Local Plan.

19. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 0:800 hours and 18:00 hours Mondays to Fridays and 08:00 to 13:00 hours on Saturdays and at no time Sundays or Bank or National Holidays.

    Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework, the Noise Policy Statement for England (NPSE), Policy SP19 of the Core Strategy and saved Policy ENV2 of the Selby District Local Plan.

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

    Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework, the Noise Policy Statement for England (NPSE), Policy SP19 of the Core Strategy and saved Policy ENV2 of the Selby District Local Plan.

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 39 of the NPPF.

INFORMATIVE: COAL AUTHORITY - LOW RISK AREA
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 Mining Remediation Authority on 0345 762 6846 or if a hazard is encountered on site call the emergency

line 0800 288 4242. Further information is also available on the Mining Remediation Authority website at: https://www.gov.uk/government/organisations/mining-remediation-authority. Standing Advice valid from 1st January 2025 until 31st December 2026.

INFORMATIVE: MAINTENANCE RESPONSIBILITY OF ADJOINING WATERCOURSE
The watercourse adjacent to this development is not maintained by the Board. The responsibility for the continued maintenance of any such watercourse and its banks rests ultimately with the riparian owners.

INFORAMTIVE: CONSENT TO DISCHARGE TO A WATERCOURSE
Under the Board's Byelaws, the written consent of the Board is required prior to any discharge, or increase in the rate of discharge, into any watercourse (directly or indirectly) within the Board's District.

INFORMATIVE: Other Permissions required from the Local Highway Authority
Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions). Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place.

Target Determination Date: 23.05.2025

Case Officer: Jenny Crossley, jenny.crossley@northyorks.gov.uk

Appendix A – Proposed Layout Plan

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APPENDIX A

Key

- Site boundary
- Proposed housing
- Existing building to be demolished
- 3m maintenance strip
- Proposed footpath link (Mown lawn)
- Existing landscaping
- Proposed landscaping (refer to Landscape Masterplan)
- Main road
- Shared surface
- Private Drive
- Part M4(3) compatible
- Post and Rail Fence
- Indicative position of EV Charging point
- Indicative shed / cycle store position
- Additional clear access zone of 1200mm for M4(3)
- Affordable Rent
- First Home

CLIFFE ROAD

HULL ROAD

GPs

8.6m

7.6m

GP

7.5

7.8

8.2

8.3

Indicative tactile crossing point

Proposed Extension to Village Hall approved under 2022/1299/FUL

Acoustic fence

2.4x43m Visibility splay

Side extension of existing building removed to facilitate new access

Existing building demolished

Forward visibility splay

Garden wall to neighbouring property

Proposed trees/landscaping

Proposed footpath link

Top of bank.

3m maintenance access

Proposed access gate for management company to manage watercourse.

Top of bank.

Proposed landscape buffer to the countryside and access to field drain.

Shaded area denotes proposed maintenance access strip to watercourse

3m maintenance access

1.8m boundary wall with proposed hedge in front

Existing tree

1.8m post and rail fence with access gate for management company to manage watercourse

Top of bank.

Indicative location of existing trees

Shallow rotting shrubs

11.2

9.7

ATTENUATION TANK

ACCOMMODATION SCHEDULE

Market Units

Housetype	Beds		ND	Storey Height	Number	2 Bed %
RIP	Ripponden	2	Semi	2	2	
Total					**2**	**10%**

Housetype	Beds		ND	Storey Height	Number	3 Bed %
DAL	Dalton	3	Semi	2	9	
SAX	Saxton	3	Semi	2	1	
ALL	Allerton	3	Detached Integral	2	2	
GRA	Grassington	3	Semi	2.5	1	
Total					**13**	**65%**

Housetype	Beds		ND	Storey Height	Number	4 Bed %
BRA	Bramham	4	Detached Integral	2	3	
KEY	Keyingham	4	Detached	2	2	
Total					**5**	**25%**

Sub-total	**20**	**80%**

Affordable Units

Housetype	Sales Name	Beds		ND	Storey Height	Number	SQFT
MALT A	Maltby	1	Maisonette		1	1	
MALT B	Maltby	1	Maisonette		1	1	
MALT C	Maltby	1	Maisonette		1	1	
MALT D	Maltby	1	Maisonette		1	1	
GRA	Grassington	3	Semi		2.5	1	
Total						**5**	**20%**

Sub-total	**5**	

GRAND TOTAL:	**Number**	**SQFT**
	25	
GROSS DEVELOPMENT AREA:	**ACRES**	**HECTARES**
NET DEVELOPMENT AREA:	**ACRES**	**HECTARES**

N

0 5 10 15 20 25 m

Date	Description	Rev
11.01.24	Amendments to whole layout following comments from LPA	T
18.03.24	Grassingtons to Daltons	U
30.09.24	Plots 22-25 swapped to Maltbys Plots 20-21 Daltons to Grassingtons	V
27.03.25	Landscaping updated	W
04.04.25	Layout updated to reflect landscape masterplan. Part M4(1) paths added.	X
14.04.25	Two vistor parking spaces relocated. Junction adjacent to plots 3 + 25 chamfered	Y
14.04.25	Site access junction moved 700mm to avoid existing brick pillar. Plots 1-5 adjusted accordingly. Junction reverted back to a radius.	Z

Drawing Title **Proposed Site Layout**

Site **Cliff Road, Osgodby**

Scale 1:500 @A2 Date 18/03/24

Drawn VB/MC Checked BB/KM/AN

Drawing No. Z055.002Y Rev. Z

Thorpe Arch Grange
Walton Road
Thorp Arch
LS23 7BA

01937 543599
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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

30TH APRIL 2025

ZG2022/1444/FULM - Change of use from Agricultural to Sports Field F2 (outdoor sports facility) including associated infrastructure (fencing, flood lights) at Land Off Friars Meadow, Friars Meadow, Selby

Report of the Assistant Director - Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine a planning application for the change of use from Agricultural to Sports Field F2 (outdoor sports facility) at Land Off Friars Meadow, Selby

1.2 This has been brought to Planning Committee by the Head of Planning Development Management as it is considered that the planning application raises significant planning issues such that it is in the public interest for the application to be considered by committee. The application has also been referred to Committee by the Division Member, Councillor Shaw-Wright.

1.3 The application was considered at Planning Committee on 12th March 2025 where it was DEFERRED for the following reason:

1) So that Officers could discuss the issues raised with the applicant and could return to the Committee with a set of draft conditions that related to control of operation and traffic levels and control of floodlighting.

1.4 Draft conditions have been prepared and agreed with the applicant and discussions have taken place with Highways. The application is returned to committee for further consideration with the supplementary information as requested.

2.0 SUMMARY

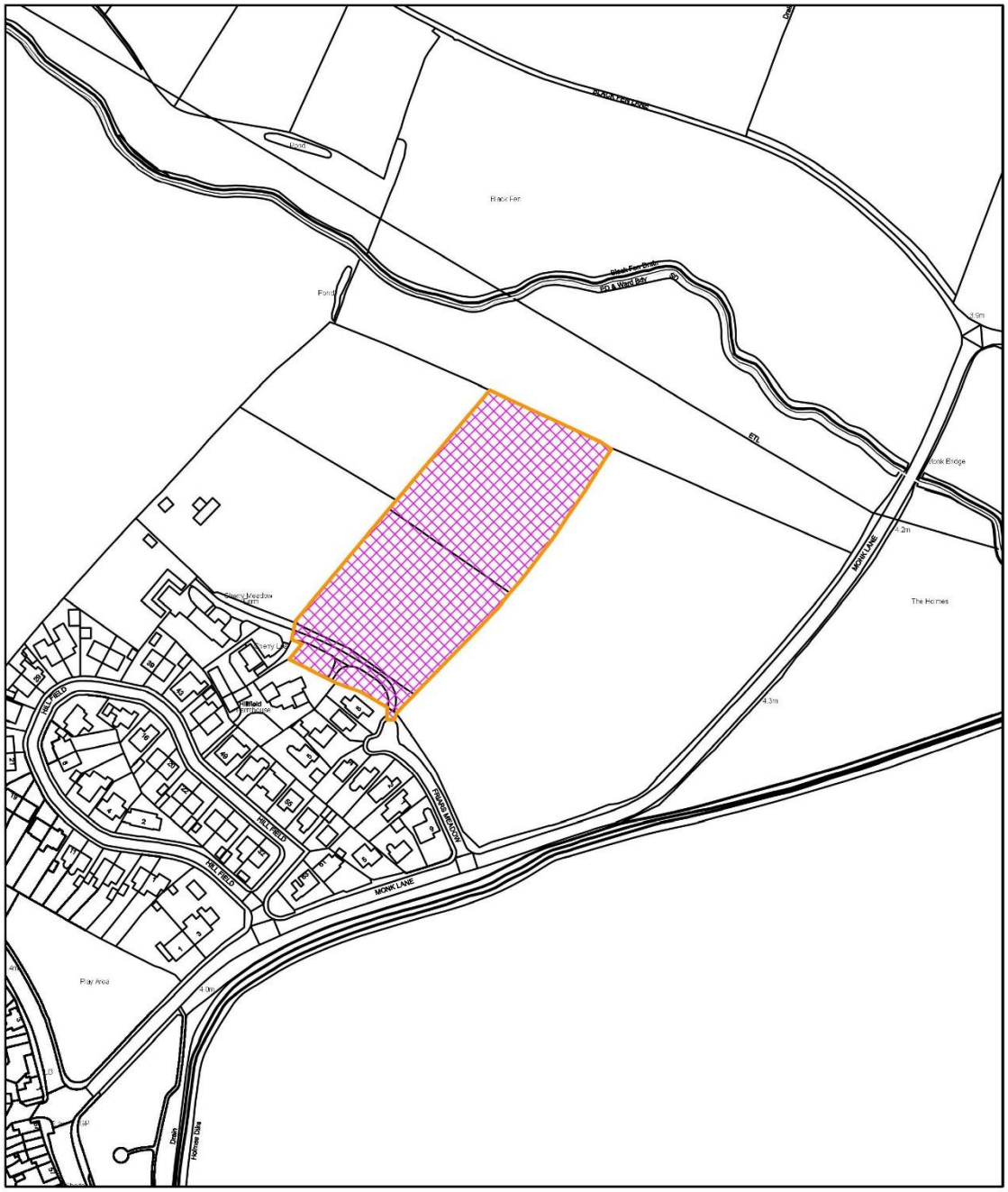
RECOMMENDATION: That planning permission be REFUSED for the reasons set out below.

2.1. Planning permission is sought for the change of use of agricultural land to a sports facility at land off Friars Meadow, Selby. An athletics track is proposed along with field sports, equipment store, floodlighting, boundary fencing and on-site parking. This application is for the change of use of the land only with supporting information supplied showing the proposed site layout and the facilities to be provided, as well as access and parking. Separate applications for installation of the track and the erection of any buildings would be required in the future.

2.2. The site is located outside of the established development limit for Selby, to the north-east of Friars Meadow. Access to the site is via Friars Meadow and uses an existing private access that serves 3 dwellings.

2.3. Representations have been received, both supporting and objecting to the proposal. Key objections are the impact of the proposal on the amenity of Friars Meadow residents, transport and parking. There are no statutory consultee objections to the proposal. The proposal would provide a sports facility for Selby and is in a suitable location on the edge of the town. However, the use of Friars Meadow and the private access to gain access the site and the resulting increase in vehicular and pedestrian movements on this road is considered to result in detriment to the residential amenity of those residents. The application is therefore recommended for refusal on the grounds of harm to residential amenity.

Land off Friars Meadow, Selby
ZG2022/1444/FULM



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3.0 Update on the application

Consideration of alternative sites

3.1. The applicant has provided a timeline of alternative sites used and considered since 2021, this is attached at Appendix A.

3.2. Sports facilities at Selby High School and Selby College have previously been used but those facilities have either been poorly maintained and therefore difficult or dangerous to use, unsuitable for purpose and with no on-site equipment storage. Facilities have also become unavailable for hire over time and the applicant has cited the on-going costs of hiring these venues.

3.3. The applicant states that the former municipal dump off Wistow Road was offered as a potential location but due to contamination and clean-up costs was considered to be unsuitable.

Highways

3.4. Further discussion was held with Highways following Planning Committee. Highways asked that the southernmost gate pillar be removed to achieve an access width of 4.5-4.8m. The applicant states that the access width has been measured at between 4.5-4.8m and this is unnecessary.

3.5. Highways also suggested that an overflow car park (unsurfaced) be provided on site. The applicant has stated that this is inconsistent with their projected user numbers (limited to 24 per session with staggered starts) and their commitment to the active travel plan.

Ecology

3.6. A further representation was made objecting to the impact of the proposal on wildlife, in particular nocturnal species. The Ecologist has requested that the ecology report is updated to assess the proposed floodlighting plan, assessing it against Bat Conservation Trust & Institute of Lighting Professionals 2023 and where there are issues to recommend changes or propose mitigation/compensation measures. The applicant was asked to carry out this work however this has not taken place.

3.7. In the event of permission being granted it is recommended that floodlighting details be conditioned and that it is accompanied by an updated ecology report that addresses impact on nocturnal species.

Further representations received

3.8. 6 additional letters of Objection (including from Friars Meadow Alliance Committee) have been received following Planning Committee on 12th March 2025:

- Highway access insufficient and too narrow for 2 cars to pass
- have alternative access routes been considered?
- conflict between construction and access needed to the 3 dwellings accessed from the track

- construction safety concerns
- concern over pedestrian and vehicular safety during construction
- use of access track will block access for the 3 dwellings that currently use it and safety issue for children playing
- no indication of how many sessions per day and how many days a week
- what alternative sites been considered?
- VOYAC members cannot rely on bus service as no42 inadequate (every 2 hours Mon-Saturday; no service Sunday)
- will members really walk/cycle to site in all weathers?
- can an alternative site access from the north-east from Monk Lane be considered?
- proposal fails to acknowledge protected species on site
- no community involvement in site selection
- tree survey invalid
- proposed floodlighting would impact on wildlife
- conditions necessary to control venue will limit capacity, more community benefit and increased numbers if located at a school, college, existing sports venue
- unsustainable location
- request committee members visit the site
- Friars Meadow Residents Alliance have sought to engage with applicant, concern over previous lack of engagement
- tree report not independently written
- Travel Plan needs updating as does not reflect the current proposals (ie. Multiple sessions/day)
- can highway access construction conditions be carried out?

3.9. The applicant has stated that they are committed to being a good neighbour and it is understood that a meeting is to take place between the applicant and residents of Friars Meadow (no date yet supplied). An update will be provided.

3.10. The committee report 12th March 2025 is attached as Appendix B.

4.0 Draft conditions

4.1. Planning Committee resolved on 12th March 2025 to defer the application to allow for a draft set of planning conditions to be produced for consideration by Members in the event that they are minded to approve the application. Proposed conditions are set out below. Conditions have been agreed with the applicant, other than condition 6 (monitoring of session numbers).

4.2. Condition 6 - the applicant has stated that they cannot report on usage levels of the facility unless North Yorkshire Council is funding or taking part ownership of the facility, (which is not the case). It is not considered that this is an acceptable reason why numbers cannot be recorded by the applicant. This condition therefore remains for consideration.

	Proposed Condition and Reason
1	The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

	Reason: In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2	The development shall be carried out in accordance with the approved plans: • VOYAC Athletics Facility Revised Location Plan • New Athletics Facility General Arrangement 3200 • Proposed Carriageway Widening AMA-00000-SK-001 Rev P01 • Large Car Vehicle Swept Path Analysis – Car Park Amendments AMA-00000-ATR-001 Rev P01 Reason: For the avoidance of doubt and in the interests of proper planning
3	The development must not be brought into use until the access to the site at Land Off Friars Meadow Friars Meadow Selby has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements: The access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50 and the following requirements. • Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway. • Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority. • Measures to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details. Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.
4	No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Land Off Friars Meadow Friars Meadow Selby have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must 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.
5	The number of members attending each athletics session must not exceed 25 at any one time. Training sessions shall not run concurrently and there shall be a minimum break of 30 minutes between sessions to allow members of the first session to fully vacate the site prior to members arriving for the following session.

	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.
6	The applicant shall monitor compliance with Condition 5 during the operation of the development. The applicant shall retain and record data from such monitoring and shall provide the data quarterly to the Local Planning Authority for the first calendar year from the start of operation and thereafter within 21 days of receipt of a written request from the Local Planning Authority. The Travel Plan shall be revised to the satisfaction of the Local Planning Authority should monitoring show adaption is required. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.
7	No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works: 1. details of any temporary construction access to the site including measures for removal following completion of construction works; 2. restriction on the use of Land Off Friars Meadow Friars Meadow Selby access for construction purposes; 3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway; 4. the parking of contractors' site operatives and visitor's vehicles; 5. areas for storage of plant and materials used in constructing the development clear of the highway; 6. details of site working hours; 7. measures to deal with construction noise: 8. details of the measures to be taken for the protection of trees; and 9. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue. Reason: In the interest of public safety and amenity
8	The development must be carried out and operated in accordance with the Travel Plan (received 27.02.2024). Reason: To establish measures to encourage more sustainable non-car modes of transport in accordance with Core Strategy Policy SP15.
9	No floodlights shall be used outside the hours of 07:00 and 21:00 hours. The floodlights shall be controlled by timer. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.

10	No flood lighting shall be installed on site until a scheme, including the following, has been submitted to and approved in writing by the Local Planning Authority: 1.details of column height and design; 2.details of baffles and cowls; 3.an updated floodlighting plan showing luminance of the athletics track and any spillage. The development shall be carried out in strict accordance with the approved scheme. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.
11	The development shall be operated in compliance with the recommendations set out in the Noise Impact Assessment ref: NP-010376 Rev 02 dated 25/11/2024. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.
12	No construction works shall take place in connection with the activity hereby approved between the hours of 08:00 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.
13	The site shall be used for training purposes only and shall not be used to host competitions. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.
14	No pistols or whistles shall be used on site at any time. Reason: In order to preserve the amenity of adjacent residential properties having had regard to Policy ENV1 of the Selby District Local Plan.
15	No flood lighting shall be installed on site until an updated ecology report, which includes a review of the proposed flood lighting, has been submitted to and approved in writing by the Local Planning Authority. The report must include a review of the proposed floodlighting plan and assess that plan against the guidance provided by Bat Conservation Trust & Institute of Lighting Professionals, 2023. If the proposed floodlighting plan does not satisfy those guidelines, appropriate changes and/or mitigation/compensation measures shall be incorporated into the floodlighting scheme and thereafter implemented for the lifetime of the development. Reason: In the interests of nature conservation and to comply with Policy ENV1 of the Selby District Local Plan, Policy SP18 of the Core Strategy.

16	Should on-site SuDS or flow restriction be proposed as part of any larger development the IDB requests that those restricted flow measures or attenuation are put in place before occupancy and within 3 months of development progressing on site. Reason: In order not to increase flood risk downstream of sites during temporary works / development. INFORMATIVE: Any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.
17	In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person. Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

5.0 PLANNING BALANCE AND CONCLUSION

5.1 The proposal is for an athletics facility which would serve Selby town and the surrounding area. There is a need for a formal athletics track in Selby and the principle of the proposal is supported by national and local policy, the playing field strategy and support from Sport England. This carries weight in favour of the application however the application was recommended for refusal on the grounds that the proposal would result in harm to the amenity of neighbouring residents.

5.2 At Planning Committee on 12th March 2025, Members intimated that they were minded to approve the proposal, and requested draft conditions that related to the control of the operation, traffic levels and floodlighting be produced for consideration. These conditions are set out in section 4.

5.3 Notwithstanding the above, it is still considered that the proposal, due to increased vehicular and pedestrian activity on Friars Meadow, particularly at the site junction with Friars Meadow, would result in harm to neighbouring residential amenity, contrary to Policies ENV1(1) and RT3(2) of the Selby District Local Plan. This harm is considered to outweigh the benefits noted above and the application remains recommended for refusal on these grounds.

12.0 RECOMMENDATION

12.1 That planning permission be **REFUSED** for the reasons set out below:

01 The increased activity, vehicular and pedestrian, is considered to result in harm to the residential amenity of the occupiers of dwellings on Friars Meadow and those accessed off the private driveway and contrary to Policies ENV1(1) and RT3(2) of the Selby District Local Plan.

Target Determination Date: 31.10.2024

Case Officer: Linda Drake

Appendix A – Vale of York Athletic Community Timeline

Appendix B - ZG2022/1444/FULM - Committee report for 12 March 2025

A timeline of alternative sites used and explored by Vale of York Athletic Community

June 2021 - Started hiring Selby High Playing School Field to launch 'Athletics 4 All' our grassroots community-led athletics initiative. Monday evenings saw sixty-five children aged 6-16 take part in their first coached running, jumping, and throwing activities on the field at Selby High. The track is a rough 400 metres and the long jump pit had been poorly maintained to the point of being unsafe for serious jumping.

September 2021 – Selby High have no indoor availability over winter due to Zumba and a host of other existing bookings; we contact Brayton Academy who never return our emails and calls and Selby College who agree to let us their sports hall at increased cost (no discount for charities). We increase fees accordingly.

September 2021 – We hire the sports hall at Selby College for the winter and they provide us with some storage although this is subject to many constraints. The sports hall is on the first floor and bringing equipment is difficult. However, our relationship with the sports department is good and Gabs Horgan talks with us positively about potential outside storage and use of the field around the football pitch in the summer. However, facilities are not supportive of our idea of an athletics track or use of outside storage.

June 2021 – Selby Playing Pitch Strategy received from Steve Shaw-Wright - Steve advised nothing in the way of land or facilities available for athletics within the confines of land owned by Selby Town Council.

15 July 2021 - Meeting with Mark Crane (leader of Selby District Council) re locations for a track and field facility. Nothing in the district available or suitable except for one possibility – a former municipal dump off Wistow Road.

19 October 2021 – Meeting with Julian Rudd, Mark Crane and Steve Saunders (consultant) at potential track location (former municipal dump off Wistow Rd). The land contains dangerous chemicals and is full of toxic waste. There have been previous quotes of in excess of £5M to cap it off even before any groundwork could begin. Not at all suitable for young children.

November 2021 – We ask members for offers of land suitable for an athletics track.

November 2021 – Trustees agree to proceed with land off Friars Meadows due to no other alternative locations available in Selby Town or the district of Selby.

1 March 2022 – Selby College merges with Wakefield College and we lose all bookings and storage with immediate effect at Selby College.

March 2022 – We contact all other schools in Selby for a space to use and only Selby High School reply. We begin book their field again for the summer and they kindly give us one evening a week over winter indoors. The field is bumpy and not suitable for sprinting and the long jump pit is in a worse state of disrepair. Indoors is cramped and every time there is exams we cannot train. Facilities will not let us have any storage on site.

1 March 2022 – Selby Town Football Club provide us with emergency temporary storage facilities.

15 May 2022 – Further enquiries to Mark Crane re any other suitable locations in the district of Selby. There are none, but Mark kindly provides us with 6 months storage at Prospect House free of charge.

24 June 2022 – Enquiry made by Sam Conway (architect) to Jordan Fairclough re pre application planning advice concerning Friars Meadow – LPA not carrying our pre planning enquiries so we cannot ascertain the viability of our plans for Friars Madow before submitting our application.

August 2022 – Looked after children athletics day at Selby High School – we hire the school field for a day in the summer holidays but no track markings. Selby High School facilities department have been helpful, but they are only set up for school athletics for one term and this is geared around sports day rather than serious training.

6 December 2022 – Enquiries with Mark Crane re use of storage space and use of the empty hall at The Summit. Subsequent meeting with Keith Cadman at The Summit but this comes to nothing. Storage of equipment is between four garages at members' homes.

30 May 2023 – Contacted by Goole Youth AC regarding redevelopment of Goole track to 180 metres. They are opposed to the redevelopment. We do not use Goole track due to lack of girls' toilets, no suitable field facilities, general state of disrepair, and the travel time from Selby.

25 June 2023 – Selby Fun Day – over 100 children at Selby Park supported by England Athletics plus a £1,000 Funetics grant: https://www.englandathletics.org/news/fun-for-all-the-family-with-funetics-at-the-vale-of-york/. We use the old bowling green which is a flat surface but needs a visual inspection for litter and we remove dog faeces from the surface before children can use it. The site is small and the noise from the bandstand makes it difficult to coach the children.

13 July 2023 – first plan for track and field development produced by Sports Labs – our World Athletics approved contractor for the development at Friars Meadow; England Athletics is supportive of a 200-metre multi-purpose training facility in this area.

22 July 2023 – Selby parkrun takeover and display of track and field plans to the public at Burn Airfield. Many positive comments. Nobody comes forward to suggest alternative sites.

5 August 2023 – Asked Melanie Davis about storage and site options – nothing available in Selby Town

4 September 2023 - England Athletics Chief Executive Chris Jones and Club Support Manager Heidi Bradley visit 2022 Yorkshire and Humber Club of the Year, Vale of York Athletic Community. They marvel at what our volunteers have achieved despite a lack of facilities locally and are wholly supportive of our track and field plans.

Subsequent talks with EA Head of Facilities, ED Hunt, reveal North Yorkshire is a priority area for a track and field developments following a hub and spoke model of existing 400 metre facilities supplemented by 200 metre compact tracks for local training.

9 September 2023 – Vale of York attends the opening of the Bramcote Stadium Scarborough and support the day alongside Steve Cram. Talk to Richard Guthrie about his development. Any parking is on street and the track is located at a former cricket ground in the heart of a residential area surrounded by houses and flats.

24 October 2023 – Indoor High Jump Competition at Selby High School – the surface can be slippy and sometimes dangerous (one head injury recorded subsequently). High jump requires spikes which cannot be worn indoors.

23 June 2024 – Selby Fun Day in partnership with Selby Town Council and Selby Leisure Centre – 150 kids in total with 130 prebooked. We used the astroturf but are not allowed any heavy equipment, spikes, or to mark the surface in any way to indicate distances. It is therefore not suitable for anything more than casual athletics training but is cost prohibitive in any case at £135 an hour for the football pitch.

12 September 2024 – Selby Youth Engagement Meeting with Laura Cobb and Andy Sim of North Yorkshire Council. Selby Leisure Centre can only provide facilities on a Friday night or during the daytime in school holidays (when the majority of our volunteers are away). Cost is £45 an hour for a third of the football pitch and this cannot be marked out for athletics. We want to tackle the anti-social behaviour outside the leisure centre but are hamstrung by a lack of facilities.

12 March 2025 – Selby and Ainsty Planning Committee defer our track and field planning committee decision for approval subject to conditions.

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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

12TH MARCH 2025

ZG2022/1444/FULM - Change of use from Agricultural to Sports Field F2 (outdoor sports facility) including associated infrastructure (fencing, flood lights) at Land Off Friars Meadow, Friars Meadow, Selby

Report of the Assistant Director - Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine a planning application for the change of use from Agricultural to Sports Field F2 (outdoor sports facility) at Land Off Friars Meadow, Selby

1.2 This has been brought to Planning Committee as the Head of Planning Development Management as it is considered that the planning application raises significant planning issues such that it is in the public interest for the application to be considered by committee. The application has also been referred to Committee by the Division Member, Councillor Shaw-Wright.

2.0 SUMMARY

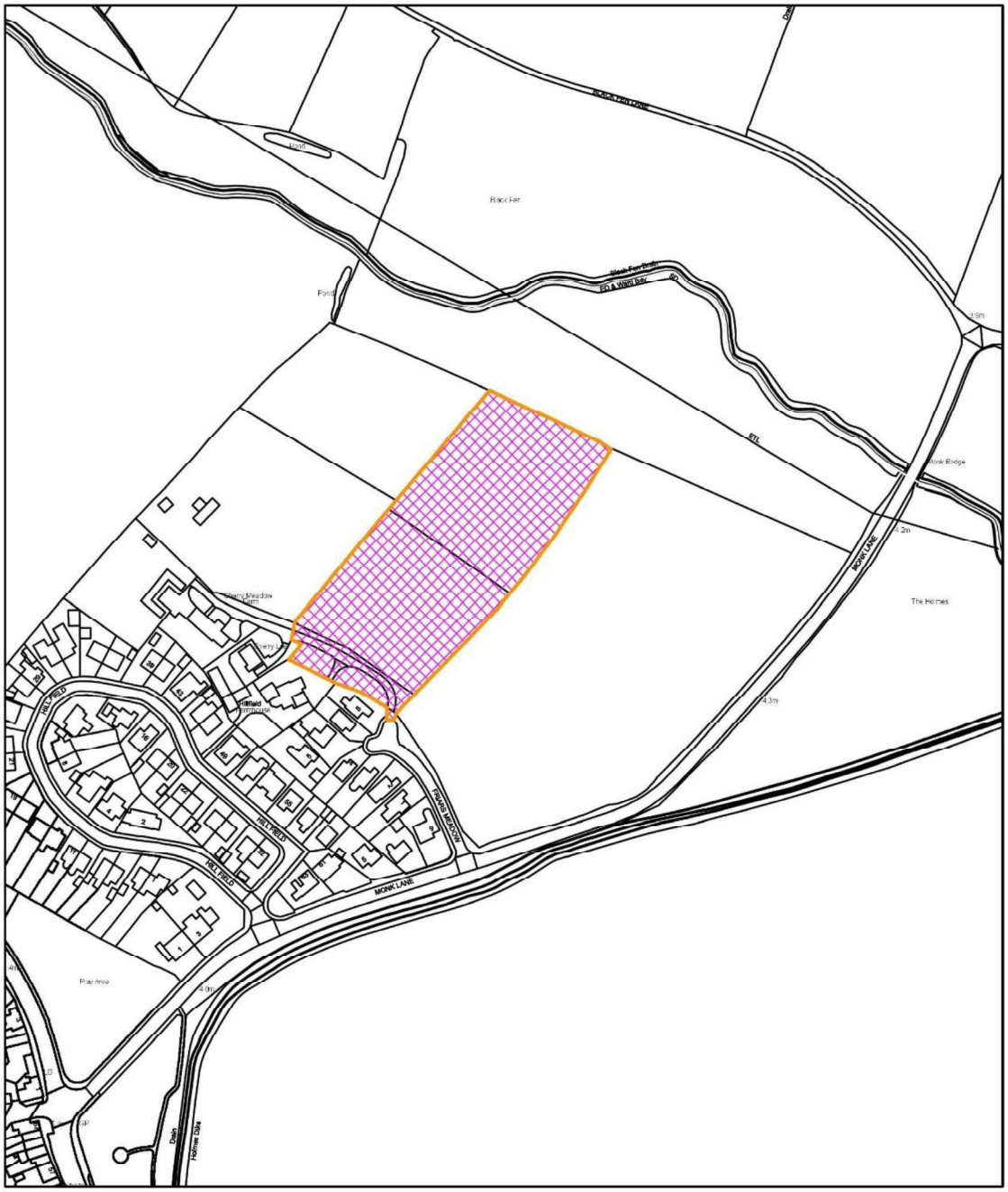
RECOMMENDATION: That planning permission be REFUSED for the reasons set out below.

2.1. Planning permission is sought for the change of use of agricultural land to a sports facility at land off Friars Meadow, Selby. An athletics track is proposed along with field sports, equipment store, floodlighting, boundary fencing and on-site parking. This application is for the change of use of the land only with supporting information supplied showing the proposed site layout and the facilities to be provided, as well as access and parking. Separate applications for installation of the track and the erection of any buildings would be required in the future.

2.2. The site is located outside of the established development limit for Selby, to the north-east of Friars Meadow. Access to the site is via Friars Meadow and uses an existing private access that serves 3 dwellings.

2.3. Representations have been received, both supporting and objecting to the proposal. Key objections are the impact of the proposal on the amenity of Friars Meadow residents, transport and parking. There are no statutory consultee objections to the proposal. The proposal would provide a sports facility for Selby and is in a suitable location on the edge of the town. However, the use of Friars Meadow and the private access to gain access the site and the resulting increase in vehicular and pedestrian movements on this road is considered to result in detriment to the residential amenity of those residents. The application is therefore recommended for refusal on the grounds of harm to residential amenity.

Land off Friars Meadow, Selby
ZG2022/1444/FULM



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3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here: -

ZG2022/1444/FULM | Change of use from Agricultural to Sports Field F2 (outdoor sports facility) | Land Off Friars Meadow Friars Meadow Selby

3.2. The following applications relate to part of the application site:

- 2018/0004/OUT - Outline application for a proposed self build plot for 1 detached dwelling house with all other matters reserved. REFUSED 24.04.2018. APPEAL DISMISSED
- 2019/0147/OUT - Outline application for erection of up to two self-build plots with all matters reserved. REFUSED 06.06.2019. APPEAL DISMISSED
- 2021/0003/OUT - Outline planning application for self build development with all matters reserved. REFUSED 19.03.2021. APPEAL DISMISSED

4.0 Site and Surroundings

4.1. The application site comprises a rectangular field to the north of Selby. The site is flat and last used for pasture. There are fields to the east and north, a further field and allotment to the north-west. To the south-west are dwellings. Access to the site is via Friars Meadow, which leads to an unadopted road beyond the turning head of the road. The site has hedgerows to the eastern and northern boundaries and a post and rail fence to the south-west and west.

4.2. The development limit for Selby runs along Friars Meadow and the front of the dwellings to the north-west. The site lies outside of the development limit and is in open countryside. The site lies within flood zones 2 and 3 and Brick Clay and Sand Gravel safeguarding areas. The site is not within a conservation area and there are no listed buildings within or abutting it.

5.0 Description of Proposal

5.1. This application seeks permission for the change of use of agricultural lands to a sports facility.

5.2. A site layout plans shows the creation of an all-weather running track comprising 8 lanes for 110m long sprint and 6 lanes for the 200m track. Within the track will be provision for field sports, including high jump, shot put and pole vault. Long jump is to the outside of the track. An outdoor gym is proposed to the north of the site. A trim trail will run around the site perimeter. Space is shown for a future building/clubhouse (no details provided as part of this application; these will form future applications). The site will be surrounded by a 3m high perimeter fence. The site will be illuminated by 6x 15m high floodlighting masts.

5.3. Car parking is shown to the south of the site, providing 13 parking spaces and 2 disabled spaces. A cycle shelter is also proposed. Access to the site will be from Friars Meadow, crossing a section of private road that leads between Friars Meadow

and dwellings to the north-west. No information has been provided as to how services will be provided to the site, to provide electricity and water (for the floodlights, proposed amenity block etc).

6.0 Planning Policy and Guidance

6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

6.2. The Adopted Development Plan for this site is:
- Selby District Local Plan, adopted on 8 February 2005
- Selby District Core Strategy Local Plan, adopted on 22 October 2013
- Minerals and Waste Joint Plan, adopted 2022

Emerging Development Plan – Material Consideration

6.3 The Emerging Development Plan for this site is:
- Selby District Council Local Plan publication version 2022 (Reg 19)

On 17th January 2025, a report was taken to the Selby and Ainsty Area Committee and Development Plans Committee recommending that work on the emerging Selby District Council Local Plan is ceased. This recommendation was taken to North Yorkshire Council's Executive on 4 February and then North Yorkshire Council's Full Council on 26 February and it was resolved that work on this plan will now cease.

Having regard to the above, no weight is to be applied to the Selby District Council Local Plan publication version 2024 (Reg 19), but some weight may be able to be given to the evidence base.

- The North Yorkshire Local Plan - no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2024
- National Planning Practice Guidance

7.0 Consultation Responses

7.1. The following consultation responses have been received and have been summarised below.

7.2. **Parish Council** - No response received within target timescale.

7.3. **Environment Agency** - No response received within target timescale.

7.4. **Environmental Health –** Concerns raised regarding noise, lighting, general construction. Recommend conditions relating to compliance with Noise Impact

Assessment, hours of operation, number of members on site at any one time, floodlight times and hours of construction.

7.5. **Yorkshire Water –** No response received within target timescale.

7.6. **Internal Drainage Board –** Comments provided and request conditions.

7.7. **LLFA –** as infrastructure to be applied for in future, applicant needs to be aware that there is no guarantee that surface water can be discharged from the site. No objection to the principle.

7.8. **Highways –** No objections subject to conditions.

7.9. **Ecology –** No priority habitats are likely to be affected and there are few risks to protected species. The recommendations of the report should be taken into account when applying for specific groundworks. The application predates mandatory Biodiversity Net Gain requirements.

7.10. **Natural England –** No response received within target timescale.

7.11. **Tree officer –** No objection, recommend that cherry trees should be retained as screening.

7.12. **Sport England –** Application will meet an identified demand for athletics in the Selby Area. Do not object to the application.

7.13. **Fields in Trust** - No response received within target timescale.

7.14. **Conservation Officer –** No response received within target timescale.

7.15. **NY Police –** As principle of development sought at this time request further consultation when more specific details are known.

7.16. **Contaminated Land –** Site is former agricultural land and contamination is not suspected to be present. Recommend reporting of unexpected contamination condition be applied to any approval.

7.17. **NY Fire and Rescue –** No objection or observation to make

7.18. **NYC Heritage –** No objection.

7.19. **Public Rights of Way –** No response received within target timescale.

Local Representations

7.20. The application was advertised by site and press notices, which expired on 22.6.2023. Following amendments, a further site notice was posted, which expired on 5.9.2023. 116 representations have been received. A summary of the comments is provided below, please see website for full comments.

7.21. Objections: 39 (multiple letters received from several writers)

- Detrimental to residential amenity
- Loss of privacy
- Increased noise and disturbance
- Detrimental impact on wildlife
- Detrimental to existing trees
- Highways issues: narrow road, access partially in separate ownership, access track unsurfaced (who will maintain), inadequate parking and turning, poor public transport links
- Concern will lead to increased crime
- Increased flood risk/poor drainage
- Loss of agricultural land
- Site unsustainable, what happens if VOYAC want to expand?
- Concern that site will be used for competitions
- People will not walk/cycle/run to site
- Will not allow access across adjoining neighbours land
- How will waste be removed?
- Construction: noise, disturbance, vibration, Friars Meadow unsuitable for heavy vehicles
- Supporters of the application are not local residents
- Over-development
- Light pollution from floodlights
- Loss of green space, site outside of development limit
- Better location elsewhere in Selby
- No neighbour consultation by applicant
- Loss of house value (Note: this is not a planning matter)

7.22. Support – 94 letters received:

- Great opportunity to improve physical and mental health of children in Selby, especially teenagers, will reduce anti-social behaviour
- Provides dedicated facility for the applicant and will prevent travel to facilities at York or Goole
- Will be a great location for events
- Location sustainable
- Supported by Selby District Playing Pitch Strategy, there is a lack of investment in athletics compared to other sports
- Noise impact will be low
- Members will run/cycle and walk to site
- Well-designed, proposal will be attractive and provide landscaping and wildlife benefits

8.0 Environment Impact Assessment (EIA)

8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Residential Amenity
- Ecology
- Landscape
- Flood Risk and Drainage
- Minerals and Waste

10.0 ASSESSMENT

Principle of Development

10.1. Policy SP1 of the Selby District Core Strategy Local Plan ('The Core Strategy') seeks a positive approach to the consideration of development proposals that reflects the presumption in favour of sustainable development established in Paragraph 11 of the NPPF and secures development that improves the economic, social and environmental conditions in the area.

10.2. The NPPF seeks to promote healthy communities through the provision of sports facilities (paragraphs 96(c) and 98(a)).

10.3. Policy SP12 of the Core Strategy promotes opportunities relating to recreation.

10.4. Selby District Council Playing Pitch Strategy & Action Plan (April 2021) and Assessment Report 2020 and comments from Sport England identify a need for formal athletics facility in Selby.

10.5. Policy RT3 of the Selby District Local Plan supports new sports and recreational facilities subject to the following criteria:

1) The proposal would not be so intrusive as to seriously detract from the character of the area by virtue of its appearance or associated noise;
2) The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;
3) New buildings or structures would be well designed and appropriately landscaped; and
4) The facilities are designed in such a way as to allow easy access and active participation by disabled people in sport.

Criteria 1 – character of the area

10.6. The proposed layout of the site shows an athletics track with sprint straight, field sports and an outdoor gym. These elements of the proposal will be at ground level and unlikely to be visible from outside the site, subject to retention and enhancement of boundaries. The proposed buildings will have an impact, however the extent of this is currently unknown as they will form future applications.

10.7. Six 15m high floodlighting columns are proposed and these will be visually intrusive in the local area, although there will be some screening at base level from existing vegetation. The floodlights will be fitted with cowls to restrict light spill and will be switched off by timer by 2100 hours. As the proposal is for athletics, the lighting levels are not as great as those required by ball sports, such as football and hockey. By their nature floodlights will have an impact on the appearance of the area, especially during the winter months where they will used for longer periods, however as the site is on the edge of the built-up area, it will be seen against a backdrop of existing lighting levels.

10.8. The applicant states that the proposal will used by a maximum of 24 participants simultaneously with no whistles or starting guns to be used on site and that it will not be used for competitions. A noise assessment has been submitted in support of the application which sets out an Action Plan of mitigation to address noise disturbance to a point that is reasonably practical. Subject to the development being implemented in compliance with the Action Plan there is no objection from the Environmental Health Officer.

10.9. In terms of Criteria 1 it is considered that there would be an impact on the character of the area due to appearance of the facility and the lighting columns, however this would be viewed against the backdrop of existing built form and lighting levels. On balance this is considered to be acceptable. With regards to noise, subject to conditions relating to implementation of the Action Plan and hours of construction it is not considered that there would be any detriment in terms of noise.

Criteria 2 – highways and local amenity

Highways

10.10. Friars Meadow is a cul-de-sac serving 8 detached dwellings. There is a footpath along one side of the carriageway. At the end of the road there is a private drive, marked with gate pillars, which serves 3 more dwellings and is surfaced with a mix of gravel and grass. The site would be accessed from this private drive which is shown to be widened to 4.5m between Friars Meadow and the site access. 13 parking spaces and 2 disabled parking spaces will be provided on site.

10.11. The applicant has provided further information in support of the proposal including a Travel Plan. It is stated that as an athletics club, walking and cycling to the site will be promoted and that the site is well connected to Selby and close to a bus stop. A management strategy will limit club users per session to 25 and anticipate 9 vehicles travelling to the site per day. It is not clear however whether this is 9 vehicles per session, and it is noted that there are likely to be more than one session a day.

10.12. The Highway Authority has considered the proposal and the submitted information and has raised no objection to the proposal, subject to recommended conditions. It is not considered that the proposal would be prejudicial to highway safety.

Amenity

10.13. Light traffic currently uses Friars Meadow, and it is a quiet road. There are no parking restrictions, and it is verged on one side. The access to the site is narrow and although the applicant has sought to demonstrate that the two cars can pass in the access, it is considered that this is unlikely to occur in practice. Notwithstanding the

promotion of active travel to the site, it is also considered likely that for junior sessions and in bad weather, there will be an increase in vehicular activity to the site. Given the site constraints at the access, increased parking, waiting and manoeuvring on Friars Meadow cannot be ruled out. There will be noise and disturbance from car headlights, particularly to the dwellings at the head of the cul-de-sac, vehicle engine noise and car doors closing.

10.14. It is noted as well that the private access serves three existing dwellings. There is potential for increased use of the access to result in obstruction and impact on the existing residents.

10.15. Noise from the site itself will be controlled through the Action Plan set out in the Noise Assessment, however there will also be increased noise from vehicles movements and pedestrians.

10.16. It is considered that activity on Friars Meadow will fundamentally change resulting in a detriment to the residential amenity of occupants. It is not considered that criteria 2 is met.

Criteria 3 – new building design and landscaping

10.17. This application is for the change of use of the land and no building details have been submitted for consideration. It is understood however that the proposed buildings will comprise of clubhouse, a storage container and cycle shelter. Subject to these being no more than single storey in height, in principle the proposed structures would be appropriate subject to details, and those details would follow with new applications.

10.18. Existing hedgerows and the cherry trees to the front of the site would be retained. This would screen the development from Monk Lane. The proposed structures would be within the site and any future application would be expected to show any proposed landscaping.

10.19. It is not considered that this criterion can be met at this time as the proposed buildings will be subject to separate planning applications

Criteria 4 – access and active participation by disabled people in sport

10.20. The proposal shows 2 disabled parking spaces to be provided onsite, however there is no further information provided to demonstrate that the facilities would be accessible to disabled persons. However, it is noted that an asphalt track is shown around the perimeter of the site which (subject to surfacing and width) would allow wheelchair use. Any forthcoming application for buildings would need to demonstrate that the facilities will be accessible.

10.21. It is not considered that this criterion can be met at this time as proposed buildings will be subject to separate planning applications.

Residential Amenity

10.22. Policy in respect to effects on the character of the area or the amenity of adjoining occupiers is set out in Local Plan Policy ENV1.

10.23. The use of the site will result in an element of noise and disturbance to neighbouring dwellings. Noise and floodlighting can be controlled via condition. Athletics is a quieter sport than ball sports, whereby shouting and ball noise is more comment. It is therefore considered that the athletics use itself would not result in detriment to residential amenity.

10.24. Friars Meadow is a quiet road and lightly trafficked with no parking restrictions. The access to the site currently serves 3 dwellings and is narrow. Although the applicant has sought to demonstrate that the two cars can pass in the access, it is considered that this is unlikely to occur in practice. Given the site constraints at the access, increased parking, waiting and manoeuvring on Friars Meadow cannot be ruled out. In addition, there will be noise and disturbance from car headlights, vehicle engine noise and car doors closing. Although this would affect all dwellings on Friars Meadow, the dwelling adjacent to the access would be most affected.

10.25. The three dwellings served by the private access would also be impacted through increased use of the access and potential obstruction and impact on the existing residents.

10.26. Overall it is considered that increased activity on Friars Meadow from the development and access to the site, would result in a detriment to the residential amenity of occupants, contrary Policy ENV1(1) of the Selby District Local Plan.

Ecology

10.27. Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy and NPPF. Paragraph 187 (NPPF) recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystems and minimising impacts on and providing net gains in relation to biodiversity. The application was submitted prior to mandatory biodiversity net gain.

10.28. An ecological appraisal was submitted which confirms there are no priority habitats likely to be affected and there are few risks to protected species. It is recommended that for future applications for specific works the information contained within the appraisal should be used to produce a Biodiversity New Gain plan quantifying losses and gains. Informatives are recommended to be attached to any permission to flag up the recommendations of the appraisal.

Landscape

10.29. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by: 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance.

10.30. The site lies to the north of Selby and has built form to the west with the rest of the boundaries open. The site is screened from view on the approach out of Selby but would be visible in wider views when approached from Monk Lane and Black Fen Lane. The site lies within the Sherburn Farmland Landscape Character Area where it is noted that whilst generally the landscape has a rural character with a strong sense of openness, the presence of extensive human intervention introduces large scale human elements which have effects on the perceived rurality and sense of openness. The site lies adjacent to the settlement and would be viewed in context of the existing built form. The structures, although visible and in particular the floodlights when in use, are proposed to be low in height and will not impact significantly on the openness of the area. It is not considered that there would be any significant landscape harm from the proposal.

Flood Risk and Drainage

10.31. Core Strategy Policy SP15 requires proposals to take account of flood risk, drainage and climate change. Criterion d) of Policy SP15 applies in respect of ensuring development is located avoiding flood risk areas. The site lies in Flood Zones 2 and 3 and a Flood Risk Assessment (FRA) has been submitted. Outdoor sports facilities are classed as Water-Compatible development in Annex 3 of the NPPF where an exceptions test is not required.

10.32. The sequential rest submitted with the FRA states that only one other site could be identified, lying behind Wistow Road/Bondgate within a lower flood risk zone, but that site has been discounted due to contamination issues. No other site is available which does not have planning permission for residential or commercial use or in a lower flood risk area. It is considered that the sequential test is passed. As water-compatible development there is no requirement for the exceptions test.

10.33. There are no objections to the proposal from the Lead Local Flood Authority nor the Internal Drainage Board. The Environment Agency did not respond to the consultation request.

Minerals and Waste

10.34. Policy S01 of the Minerals and Waste Joint Plan (MWJP) requires mineral resources and their buffer zones to be safeguarded from other forms of surface non-mineral development. Policy S02 of the MWJP lists exceptions and justification for non-minerals development. This includes making certain applications exempt from further consideration of the safeguarding policies. The exempt developments are listed in paragraph 8.55 of the MWJP.

10.35. The site lies within Brick Clay and Sand Gravel safeguarding areas. The proposed use is not considered to result in sterilisation of the land for mineral extraction however as it is sited adjacent to existing residential development it is unlikely to be used for extraction in the future. There is no conflict with the Minerals and Waste Local Plan.

Section 149 of The Equality Act 2010

10.36. Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.37. 10.21. The proposed development would result in a neutral effect on any persons of or persons with The Equality Act 2010 protected characteristics and could have a positive impact arising from the sporting opportunities offered and improved environment.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. The proposal is for an athletics facility which would serve Selby town and the surrounding area. There is a need for a formal athletics track in Selby and the principle of the proposal is supported by national and local policy, the playing field strategy and support from Sport England. This carries weight in favour of the application.

11.2. The site is accessed via a quiet residential road and private access and driveway. The increased activity, vehicular and pedestrian, is considered to result in harm to the residential amenity of the occupiers of dwellings on Friars Meadow and those accessed off the private driveway, contrary to Selby Local Plan Policies ENV1(1) and RT3(2). This harm is considered to outweigh the benefits noted above and the application is therefore recommended for refusal on these grounds.

12.0 RECOMMENDATION

12.1 That planning permission be **REFUSED** for the reasons set out below:

01 The increased activity, vehicular and pedestrian, is considered to result in harm to the residential amenity of the occupiers of dwellings on Friars Meadow and those accessed off the private driveway and contrary to Policies ENV1(1) and RT3(2) of the Selby District Local Plan.

Target Determination Date: 31.10.2024

Case Officer: Linda Drake

Appendix A – Proposed Site Layout Plan

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APPENDIX A

LAND OFF FRIARS MEADOW, FRIARS MEADOW, SELBY, NORTH YORKSHIRE, YO8 3RZ

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North

Rail and post fence

Rail and post fence

Mature hedge mix

Apple Tree

Ornamental Cherry Trees

Leylandii

Brick wall max height 2m min height 1.2m

Access point
Private road links to adopted highway

See tree survey for further details of trees. No planned works on any trees

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Scale 1:200

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