

North Yorkshire Council

Community Development Services

Selby and Ainsty Area Constituency Committee

10 MAY 2023

2022/1483/OUTM - OUTLINE PLANNING APPLICATION INCLUDING ACCESS, WITH ALL OTHER MATTERS RESERVED FOR ERECTION OF 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 outline planning application including access, with all other matters reserved for erection of up to 110 residential dwellings on land at Field Lane, Thorpe Willoughby, Selby, North Yorkshire.
- 1.2 This application is reported to Committee because the Head of Planning considers this application to raise significant planning issues such that it is in the public interest for the application to be considered by Committee.

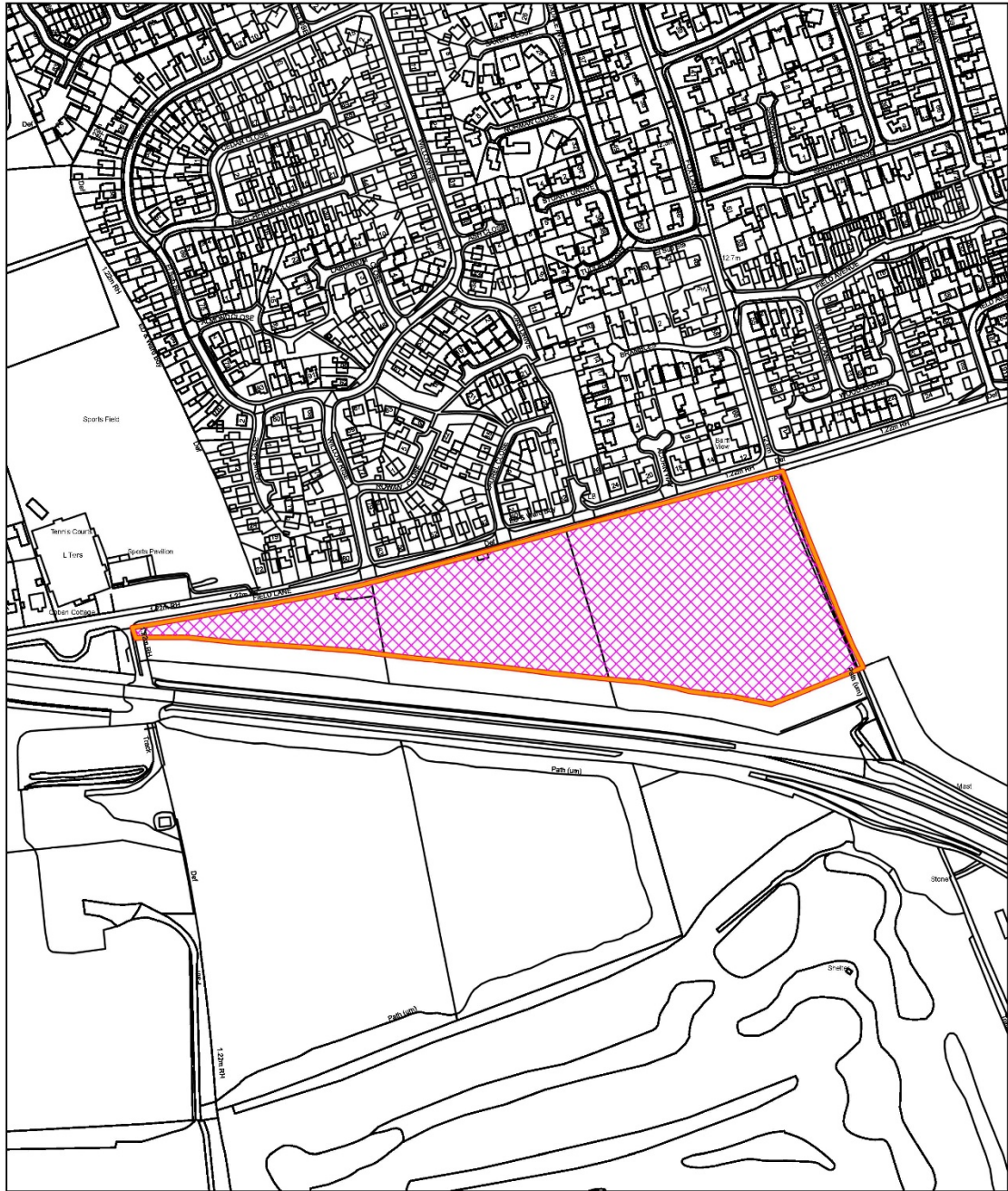
2.0 SUMMARY

RECOMMENDATION: That planning permission be REFUSED for the reasons stated below in Section 12.

- 2.1. This is an application for outline planning permission for up to 110 dwellings with access matters to be determined. The indicative site layout plan shows an area of public open space in the western corner of the site and the remainder of the site occupied by a mix of dwellings. Two accesses are proposed on to Field Lane. The site is 4.65 hectares (ha) in area and triangular in shape. It is within the countryside to the south of the development limit of Designated Service Village, Thorpe Willoughby. The site is relatively flat and undeveloped, with an established hedgerow to the northern boundary and a band of trees to the southern boundary along the route of the A63. There is a public right of way along the eastern boundary with a Locally Important Landscape Area (LILA) beyond it to the east.
- 2.2. The proposal is unacceptable in principle because it amounts to substantial residential development in the countryside that is contrary to the spatial development strategy of the development plan and is not development of an appropriate scale and would result in disproportionate growth in the amount of housing in the village within the plan period, contrary to Policies SP2 and SP5. The proposal would also result in the unnecessary loss of agricultural land. Furthermore, the proposal does not address potential mineral impacts contrary to the Minerals and Waste Joint Plan. The proposal would generate additional recreational pressure leading to the deterioration of ancient woodland at Brayton Barff contrary to the provisions of the development plan and NPPF. The proposal does not provide capacity assessments for all the highway junctions deemed

necessary nor does it assess impacts arising from committed developments in the area. Pedestrians would be encouraged to cross the A63 without consideration of safety implications. Therefore, the proposal does not demonstrate highway impacts are acceptable. Despite other matters being acceptable, and the positive impacts of housing delivery in a relatively sustainable location, there are significant negative impacts arising from the proposal that outweigh these to the extent it is recommended permission be refused for the reasons set out below.

Land at Field Lane, Thorpe Willoughby
2022/1483/OUTM



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3.0 **Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:- [2022/1483/OUTM | Outline Planning Application including access, with all other matters reserved for erection of up to 110 residential dwellings | Land At Field Lane Thorpe Willoughby Selby North Yorkshire](#)
- 3.2. During the course of the application amended ecological and highway impact assessment documents were submitted.
- 3.3. The following relevant planning history has been identified for the application site:

Application Number: 2016/1345/OUTM

Description: Outline application for residential development including access (all other matters reserved).

Decision: 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.”

- 3.4 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).
- 3.6 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 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, with small western areas in low to medium surface water flood risk areas. The site is at risk of reservoir flooding when river levels are normal. The site is within a sand and gravel safeguard area and ground water source protection zone. 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 matters to be determined and with all other matters reserved for the erection of up to 110 residential dwellings of which 44 (40%) would be affordable homes. The density would be around

24 dwellings per hectare. Two accesses to the site are proposed from Field Lane via priority junctions towards the eastern and western parts of the site. The proposed access will have a width of 5.5 metres, 2 metre footpaths either side and a radius of 6 metres. Visibility Splays are achieved 2.4 metres x 59 metres in both directions. The proposed access and visibility splays are shown on drawing number 2444/202. Pedestrian access is proposed from a new two-metre-wide footway on the southern side of Field Lane and will continue into the application site along both sides of the new access roads.

- 5.2. Scale is a reserved matter but the design and access statement envisages two storey dwellings would be proposed at reserved matters stage.
- 5.3. An indicative site layout (Appendix B – Indicative site plan) 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:
 - 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. The responses have been considered and the next stage involves the submission of the plan to the Secretary of State for Examination.

In accordance with paragraph 48 of the NPPF, given the stage of preparation following the consultation process and depending on the extent of unresolved objections to

policies and their degree of consistency with the policies in the NPPF, the policies contained within the emerging Local Plan can be given weight as a material consideration in decision making.

The site forms part of a larger site that was put forward in the call for sites and was rejected as a housing allocation under the emerging Local Plan, reference THRP-M.

Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2021
- 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:** Objection raised on the grounds of harm to the character and appearance of the area and failure to conserve and enhance the natural environment contrary to Local Plan policy. It is noted that approval would set a precedent for further developments on green belt land surrounding the village and woodland. Raise the location of the site, which has a postcode in Thorpe Willoughby but sits within Gateforth and Hambleton Parish, meaning that the Community Infrastructure Levy generated would be paid to Gateforth & Hambleton Parish Council. These villages will financially benefit from these houses, although they are over 2 miles away and the amenities in these villages will not be affected whereas those of Thorpe Willoughby will be.

The site is within 500 meters of Brayton Barff, a protected ancient woodland. Building the quantity of houses proposed in the field next to this would be harmful to flora and fauna. The proposal will look dense and visually unattractive and not in keeping with the rest of the village. With the addition of potentially two hundred plus more residents and vehicles, highway safety is a concern. Access via Field Lane in Thorpe Willoughby will draw vehicles through the village thereby increasing 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. 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 and Gateforth does not have a primary school. The proposal will be in the catchment area for Thorpe Willoughby School and will surely not be able to cope with a high influx of new starters, similarly with Hambleton. Cumulative impacts will arise in relation to the aforementioned issues if the other two outline planning applications/developments planned in the area, 2022/1410/OUTM – Barff Lane and Local Plan site THRP-K - Leeds Road are developed.

7.3. **Hambleton Parish Council:** Objection raised as the proposal will exacerbate existing highway problems, there are limited, stretched amenities in the village, the site would

have a detrimental impact on Brayton Barff and the Locally Important Landscape Area and applications at the site have been previously rejected. In particular:

The state of the A63 with subsidence and a recent pedestrian accident, the quantity of traffic and high percentage of HGV brings into question the developer suggesting there are good road links. Future residents of the proposal would have to commute by car to surrounding towns and cities because public transport is unreliable, inefficient and unavailable. This is contrary to the NPPF which says sustainable development will reduce the number of car journeys. Fox Lane provides unsuitable and unsafe access as it is narrow and used for parking. The proposal would increase traffic flow at the crossroads in Brayton. Have Brayton Parish Council been notified of the application?

- 7.4. **Councillor Lunn, Ward Member for Thorpe Willoughby:** Objection. Raises the location of the site within the postal area of Thorpe Willoughby and its parish location within the parish authority of Gateforth, and the impacts of this in terms of CIL monies and future precepts. Also raises the adverse impact of the increased traffic and existing parking problems on Field Lane, Thorpe Willoughby. The proposed development is much further from the few amenities in Gateforth than from the facilities in Thorpe Willoughby and is compounded by further proposed developments on Thorpe Willoughby's border with Hambleton Parish. All such applications should be put on hold until a boundary commission passes judgement on new North Yorkshire division boundaries.
- 7.5. **NYC Environmental Health:** The noise impact assessment is noted and conditions recommended regarding noise mitigation, an emission mitigation statement, scheme to protect residential amenity, construction hours and piled foundations.
- 7.6. **NYC Landscape Architect:** To appreciate the significance of Brayton Barff 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 village's 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 Barff 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.

- 7.7. **NYC Waste and Recycling:** 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.
- 7.8. **NYC Archaeologist:** No objection.
- 7.9. **NYC Ecologist:** *Ecological information:-* The PEA identifies few issues in terms of protected or other important species but does not provide sufficient information to properly understand the impacts of the proposed development. For this, all the ecological information (including an assessment of impacts on ancient woodland) needs to be drawn together in an Ecological Impact Assessment (EclA). At reserved matters stage, ecological mitigation measures would need to be included within a Construction Environmental Management Plan (CEMP) or a stand-alone Ecological Mitigation Plan. This should incorporate relevant recommendations set-out in the PEA and EclA. An Ecological Management Plan should explain how newly-created and retained habitats would be established and managed. Again, this could be submitted at reserved matters stage.

Bats:- The bat activity survey was carried out very late in the season. Table 2 refers to spring period which is misleading. Given the limited data, the ecologist is not convinced that the conclusions drawn are adequately evidenced. The relatively high number of registrations of Nathusius's Pipistrelle should be discussed. Given the shortcomings of the survey data, it's important that the EclA fully considers opportunities to strengthen and enhance bat commuting and foraging corridors along the site boundaries and across the site. This should include incorporating the recommendations set out in section 34 of the survey report into the development proposals.

Impacts on Brayton Barff:- The applicant needs to provide a comprehensive assessment of effects on the ancient as part of the EclA, taking into account Natural England/Forestry Commission guidance. This should consider direct, indirect and in-combination impacts, taking account of other planned or proposed development in the vicinity. From a site visit to Brayton Barff and SINC, it is clear that it is already deteriorating as a result of recreational pressure. Most obviously, the main paths have extended to several metres wide in places, there are extensive areas of bare ground and informal paths have proliferated throughout the wood. This all results in soil compaction, loss of vegetation and disturbance of wildlife. From an ecology point of view, it is reasonable to assume that additional housing in the vicinity would result in further deterioration unless robust mitigation measures were in place. Yorkshire Water's recreation manager has sent me their visitor data, based on automatic counters. The main site entrance was averaging around 18,000 pedestrians a month over 11 months with 11,377 cars per month. Concludes that there is quantified evidence of the level of visitor pressure.

Biodiversity net gain:- This shows that the development could potentially deliver net gains of at least 10% for both area-based and linear (hedgerow) habitats. Reservations are expressed regarding the proposed conversion of arable land to grassland of Moderate ecological quality. This is likely to require careful site preparation to reduce soil nutrient levels, especially if the land has been treated with inorganic fertilisers in

the past. However, the proposed habitat is in principle achievable. The BNG assessment would need to be repeated at reserved matters stage if the finalised scheme differs significantly from the plans on which the calculation is based. This includes any change to the applicant's control over the off-site land referred to in the Biodiversity Gain Opportunities Assessment.

Ecological Impact Assessment:- The EclA sets out ecological mitigation and enhancement measures which could be incorporated readily into a Biodiversity Management Plan and Construction Environmental Management Plan (Biodiversity). The principal concern remains the potential for significant impacts on the ancient woodland at Brayton Barff SINC. The ancient woodland at Brayton Barff is already subject to a high level of recreational pressure, which has a deleterious impact on the habitat through soil compaction and loss of natural vegetation. This is largely due to the sheer volume of footfall, resulting in the widening of paths, the proliferation of informal tracks and the creation of extensive bare areas. Additional effects are likely to include disturbance of wildlife and nutrient-enrichment associated with dogs defecating and urinating. The EclA concludes that "development of the Site has the potential to result in a minor negative impact on the SINC [Brayton Barff], due to increased recreational pressure". It is acknowledged that there would be some residual impact despite mitigation measures (paragraph 57). Proposed mitigation measures have been set out in item 4d of Table 4 of the EclA. These include providing access to woodland in the applicant's control to the south of the A63. It is stated that details will be provided in the Biodiversity Management Plan.

These proposals are welcomed, and it is recognised that providing alternative recreational options would offset some of the pressure on the ancient woodland. Nonetheless, it is inevitable that development within a few hundred metres of Brayton Barff would lead to a significant net increase in footfall, especially when considered in combination with other proposed developments in the vicinity. The Field Lane site is the closest of the three current applications and therefore likely to be the most impactful. The woodland to the south could only be accessed by crossing the busy A63, so it is likely that a significant proportion of new residents would prefer to use the Barff for local walks and exercising dogs. The ecologist is therefore unconvinced that the applicant has demonstrated that they could avoid the deterioration of irreplaceable habitat.

- 7.10. **Lead Local Flood Authority:** Discharging surface water via infiltration should be discounted via soakaway testing before disposal to Yorkshire Water surface water sewer is accepted. The latter should be agreed with YW prior to granting permission subject to a pre-commencement drainage condition. Peak flow control should be addressed as part of the detailed design. Volume control parameters, pollution control, designing for exceedances, climate change and urban creep, and maintenance requirements are provided. It is considered the submitted documents demonstrate a reasonable approach to the management of surface water on the site and a series of conditions are recommended.
- 7.11. **Local Highway Authority:** Initially sought amendments to the Transport Assessment regarding traffic growth, committed developments, and traffic impact and assessment outputs. The Travel Plan requires clarification regarding bus provision.

Following submission of amended information, the LHA require the traffic impact assessment to include at the Leeds Road/A19 junction; provides a list of committed developments it wants considered with regards to junction capacities; and raises safety concerns regarding pedestrians being encouraged to cross the A63 to access woodland. Pedestrians crossing a busy 60mph road should not be promoted unless safety precautions are put in place. Alongside the other committed developments this would be used by various occupiers allowing a greater potential for pedestrian and vehicular accidents. As a result the LHA would require more information regarding the safety concerns raised and how this would be mitigated to be acceptable.

- 7.12. **Minerals and Waste Team:** The site is within a Minerals safeguarding area. The proposal is not exempt and until a minerals assessment is provided the minerals and waste planning team are unable to comment on the acceptability of the proposal.
- 7.13. **NYC Public Rights of Way:** Confirm there is a PROW reference 35.30/5/1 on or near the site and relevant provisions are set out.
- 7.14. **NYC Strategic Planning, Children and Young People's Service:** Contributions are sought: £104,383.50 towards school expansion places at Hambleton Church of England voluntary controlled primary school; £316,187.30 towards school expansion places at Selby High School; £70,660.70 towards school expansion places for special school provision; and £88,324.50 towards school expansion places for early years provision.
- 7.15. **Contaminated land consultant:** The preliminary investigation of land and 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.
- 7.16. **Yorkshire Water:** Seek conditions relating to water supply, to restrict development above the on-site water mains or secure diversion, and waste water to secure development in accordance with the submitted flood risk assessment. In terms of water production, the site is within ground water source protection zone 3. Surface water drainage can be to soakaway, contamination should be considered and deep soakaways avoided.
- 7.17. **North Yorkshire Fire and Rescue Service:** No objections.
- 7.18. **North Yorkshire Police:** The response provides an overview of national and local policy, crime statistics, and provide design guidance. A condition is recommended to secure consideration of its comments.
- 7.19. **NHS Humber and North Yorkshire Integrated Care Board:** A contribution of £129,670.00 is sought to fund works at the 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.

- 7.20. **Selby Area Internal Drainage District-** The site is outside its area. However, if surface water is to be discharged into any ordinary watercourses and eventually discharge into the Board's district, Consent would be required from the Board under Bylaw 3. Furthermore, any discharge would be restricted to 1.4l/s/ha or greenfield runoff.

Local Representations

- 7.21. Fifty-four local representations have been received of which one is in support and fifty-three are objecting. A summary of the comments is provided below, however, please see website for full comments.

- 7.22. Support:

- Residential amenity

- 7.23. Objections:

- The site is not allocated in the development plan.
- Permission was previously refused and an appeal dismissed and these reasons still stand.
- 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, disruption and mental health impacts.
- Visual harm in a tranquil and attractive area.
- Loss of field views, trees and hedgerows.
- Harm to setting of the LILA and within the candidate LILA site.
- Traffic and highway safety issues as traffic will pass through the village to get to the A63. New estates have insufficient parking meaning car parking will be displaced onto Field Lane which will cause issues. The sports club and Brayton Barff generate significant on street parking. Emergency vehicle access may be problematic.
- 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, cycle networks, services and facilities. 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.
- Future residents would need to travel for work.
- 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 and harm to plants and animals at Brayton Barff and wider area, including ancient woodland and nature conservation site.
- Biodiversity benefits are offset by the harm caused.
- The proposal suggests diversion of the existing public footpath through the proposed housing estate.
- Increased flood risk.

- Brown field land, Heronby and Olympia Park should be built on instead of allowing village coalescence.
- Huge water main under the field.
- Will cause issues for the canal.
- Renewable energy systems should be conditioned.
- Property devaluation and trouble selling property.
- The site plan shows open space near the A63 which will endanger children.

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. 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
 - Education, healthcare, waste and re-cycling

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 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. 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. The proposal is contrary to Policy SP2A(c). Policy SP2 is considered consistent with NPPF paragraph 79 which requires that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services; and paragraph 174 which requires planning policies and decisions should contribute to and enhance the natural and local environment by:...(b) recognising the intrinsic character and beauty of the countryside. Policy SP2 does this by being supportive of the principle of development within development limits whilst taking a more restrictive approach to development in the countryside but still allowing some forms of development. This level of consistency means it is appropriate to give policy SP2 full weight based on the tests within NPPF paragraph 219.
- 10.5. Paragraph 32 of the previous appeal decision states *“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 (Gladman Developments Limited V Daventry District Council & SSCLG [2016] EWCA Civ 1146) the Court of Appeal held that significant weight should be given to the public interest in having planned 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.”*

- 10.6. The Selby District Council 5-year Housing Land Supply Report 2022-2027 Position at 31st March 2022 demonstrates a 6.1-year supply. SDC also passes the housing delivery test 2021 for the financial year 2021/22.
- 10.7. The foreword to the spatial development strategy provides other locational principles that will also influence the consideration of development proposals, namely, prioritising use of previously developed land wherever this can be done without compromising other overriding sustainability considerations; application of the flood risk sequential test; new development being accessible by modes of transport other than the private car and where the need to travel is minimised; and protection and enhancement of biodiversity and natural resources. The site is not previously developed land. The remaining other locational principles are discussed below in detail.
- 10.8. Policy SP5 The Scale and Distribution of Housing states provision will be made for the delivery of a minimum of 450 dwellings per annum in the period up to March 2027; that housing land allocations will be required to provide for a target of 5340 dwellings between 2011 and 2027 with 29% of these to be distributed to Designated Service Villages; and that allocations will be sought in the most sustainable villages (DSVs) where local need is established through a Strategic Housing Market Assessment and/or other local information. Specific sites will be identified through the Site Allocations part of the Local Plan. The Site Allocations element of the Core Strategy was not brought forward. Policy SP6 Managing Housing Land Supply sets out how the Council will ensure the provision of housing is broadly in line with the annual housing target and distribution under Policy SP5; and how under performance will be dealt with.
- 10.9. Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for DSVs as a whole, which, the most recent monitoring indicates has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual DSVs.
- 10.10. The appeal decision considered the CS minimum target of 2000 new dwellings across the 18 DSVs as a whole had, at that point in 2018, already been exceeded by more than 25% with 2,663 homes having been completed or with planning permission and that 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.
- 10.11. At the time of the appeal decision some 486 dwellings had been completed or granted planning permission since the start of the plan period in Thorpe Willoughby. The Inspector noted *"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."* While the Growth Options Report was not progressed the broader concern about disproportionate growth of the village remains. The Inspector considered that despite its proximity to Selby, an additional 594 dwellings would be a disproportionate share of the overall growth envisaged in the DSVs and a

disproportionate expansion of the village. Furthermore, they considered *“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.”* The Inspector concluded that against the backdrop of a housing land supply 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 in conflict with CS Policy SP2 and SP5.

- 10.12. Since the appeal decision in March 2018, planning permission for a further 7 dwellings was approved on 16/2/2022, reference 2020/0743/FUL, within the development limit of Thorpe Willoughby. This serves to demonstrate that there are still opportunities to develop housing sites within the development limit that accord with the principles set out in Policy SP2 and secure proportionate growth in terms of numbers of dwellings and scale of sites, without the need for the release of major extensions to the village that project into the countryside around it. There has been no change on and around the site that indicates a departure from these policies should be supported. On the contrary, Field Lane and the development limit still provide a very definite edge to the village with open countryside to the south.
- 10.13. It remains the case that the LPA is able to demonstrate a 5-year housing land supply, and passes the housing delivery test. Therefore, policies SP2 and SP5 which are most important for determining the application are not out-of-date as defined in paragraph 11d of the NPPF. Furthermore, they can be applied without jeopardising the 5-year housing supply objective and the age of these policies alone does not render them out of date. The presumption in favour of sustainable development is not engaged. Even if the presumption were to be engaged, the application of policies in the Framework that protect areas or assets of particular importance would provide a clear reason for refusing the development proposed, due to the harm to irreplaceable habitats in the form of ancient woodland (discussed in more detail below).
- 10.14. Paragraphs 5.3 to 5.12 of the submitted planning supporting statement quote Lindblom J in *Bloor Homes East Midlands Limited v SSCLG* [2014] EWHC 754 (admin) and consider policy SP2(c) out of date because the development plan has not been reviewed; the lack of new allocations; lack of review of development limits; tightly defined development limits; approval of sites beyond the village development limits; and the emerging local plan having allocations beyond current development limits. The planning statement seems to query housing delivery and contends the site does not function as open countryside.
- 10.15. The LPA disagrees with the planning supporting statement because it can currently demonstrate a 5-year housing land supply and passes the housing delivery test which shows that while these development plan policies are old they can still be considered up to date and given full weight. The case put forward also fails to address the case law cited by the Inspector, the conflict with Policy SP5 identified by the Inspector and reaffirmed above, noting the proposal would exacerbate the disproportionate growth experienced by Thorpe Willoughby nor would it represent an appropriate scale of development, thereby undermining the CS development strategy. While no specific references for sites approved beyond development limits are provided, it is anticipated

this refers to sites permitted at a time when the LPA could not demonstrate a 5-year housing land supply which is no longer the case. The LPA is not giving significant weight to the emerging local plan at this stage therefore it should not be an overriding consideration in this case. The LPA disagrees with the contention the site does not function as open countryside, as did the Inspector.

- 10.16. 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.
- 10.17. 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 bus services to Selby. In terms of access to services and facilities and a choice of mode of transport, despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location with alternatives to car-based travel.

Section 149 of The Equality Act 2010

- 10.18. 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.
- 10.19. 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.

Loss of agricultural land

- 10.20. The site is used for arable agricultural purposes and grazing. Policy SP18 of the Core Strategy seeks to sustain the natural environment by steering development to areas of least agricultural quality.
- 10.21. NPPF paragraph 174 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.

- 10.22. 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 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).

Minerals

- 10.23. 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 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.
- 10.24. 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

- 10.25. 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".
- 10.26. 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".
- 10.27. NPPF paragraph 124 requires decisions should support development that makes efficient use of land. Paragraph 125 encourages consideration of minimum densities "where there is an existing or anticipated shortage of land for meeting identified housing needs".

- 10.28. The erection of 110 dwellings on 4.65 hectares of land equates to a density of 24 dwellings per hectare. 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. NPPF paragraph 125 is not engaged because of the robust 5-year housing land supply. The proposed indicative housing density is appropriate in these circumstances.

Mix

- 10.29. 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 63 seeks to create mixed and balanced communities through affordable housing provision. This policy is consistent with the NPPF and is given significant weight. 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.”
- 10.30. 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% |

- 10.31. 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.

Character and appearance

- 10.32. 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.

- 10.33. 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.
- 10.34. Emerging local plan policy NE4 supports development within the extended Hambleton Hough to Brayton Barff LILA (of which the application site forms a part), only if it avoids significant loss of key characteristics that contribute to the quality of the LILA and respond to the specific recommendations for each LILA as set out in the Selby District Landscape Designation Review 2019 (or subsequent update). Turning to the tests for weight that may be given to emerging local plan policies in NPPF paragraph 48, there are two unresolved objections to this policy, it is consistent with the NPPF in seeking to protect areas of acknowledged importance and the plan is only moderately advanced with submission for examination yet to take place. Policy NE4 is given limited weight at this stage but this situation could change in the coming months as the plan progresses.
- 10.35. NPPF paragraph 174 requires policies and decisions should contribute to and enhance the natural and local environment by (a) protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan).
- 10.36. 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. With regards to the Selby District Landscape Sensitivity Study updated report (October 2021), the Council's website states, "This document is to be used to inform planning decisions and plan making in relation to landscape sensitivity". This supersedes the Landscape Appraisal (January 2011).
- 10.37. The Landscape Assessment of Selby District (January 1999) was produced to support the Selby District Local Plan and the Council's website confirms it has been superseded by the Selby Landscape Character Assessment (November 2019). 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, has not yet been adopted and the LPA is giving only limited weight to associated emerging local plan policy NE4 but this situation could change in the coming months as the plan progresses.
- 10.38. The Selby Landscape Character Assessment (November 2019) has 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.

- 10.39. The Selby District Landscape Sensitivity Study (October 2021) puts the application site 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 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."
- 10.40. 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. 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.
- 10.41. Given its current use and appearance the site is considered to function as open countryside, contrary to the view of the applicant and in accordance with the view of the Inspector. However, the development would visually be 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.
- 10.42. 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)
- 10.43. 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 this is not considered to amount to material harm.

- 10.44. 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 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 a 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.
- 10.45. Under current policy position, 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.
- 10.46. The Council's Landscape Architect notes 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. It is considered that the proposed development would disrupt the setting of Brayton Barff and the sweep of landscape between the two hills.
- 10.47. The 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 Barff 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.

- 10.48. 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 yet been adopted and it is not appropriate to give significant weight to associated emerging Local Plan policies at this stage. The previous appeal decision concluded the character and appearance impacts of the almost identical proposal, with the same development plan context but utilising different supporting assessments, were acceptable. The potential LILA expansion onto the application site carries too little weight at this stage for it to be determinative. The impact upon the character and appearance of the area are considered acceptable in this context.

Flood risk, drainage and climate change

- 10.49. 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 159 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.” Paragraph 162 states “The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”
- 10.50. The application site is in flood zone 1 (low probability of flooding) for sea and river flooding, with small western areas in low to medium surface water flood risk areas. The site is at risk of reservoir flooding when river levels are normal.
- 10.51. The indicative site layout shows it is possible to locate housing in areas at low risk of flooding. The risk from reservoir flooding is considered to be low because Brayton Barff reservoir is managed by Yorkshire Water and this is a covered reservoir which is less susceptible to overtopping. As such, the sequential test is passed. The exceptions test is not required in the particular circumstances of this proposal.
- 10.52. Surface water drainage options are discussed within the application. Use of soakaways is suggested without ground investigation demonstrating feasibility. Alternatively, disposal of surface water to the Yorkshire Water public surface water sewer is also suggested. Foul water is proposed to be disposed of to the Yorkshire Water public foul sewers located within the public highway to the north of Field Lane. Drainage and climate change mitigation measures can be secured by condition. Yorkshire Water

comments show ground water protection can be secured by condition. Flood risk, drainage and climate change matters are acceptable subject to such conditions.

Access, transport and highway safety

- 10.53. 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.
- 10.54. 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.
- 10.55. 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.
- 10.56. 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”.
- 10.57. 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.
- 10.58. 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.”
- 10.59. Policy T7 encourages the provision of cycle routes and parking. Policy VP1 supports the provision of parking spaces/facilities in new developments up to the maximum car parking standards as set out in Appendix 4 of the Local Plan. These are considered to have been superseded by the North Yorkshire County Council Interim Guidance on Transport Issues including Parking Standards and Advice on Transport Assessments and Travel Plans (2015).
- 10.60. NPPF paragraph 104 requires transport issues be considered from the earliest of development proposals so that impacts of development on transport networks can be addressed; opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; opportunities to

promote walking, cycling and public transport use are identified and pursued; and the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.

- 10.61. Paragraph 108 permits maximum parking standards in certain limited circumstances. The aforementioned NYCC standards are minimum standards.
- 10.62. Paragraph 110 requires in assessing applications it should be ensured that: “(a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given 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.”
- 10.63. Paragraph 111 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 would be severe.”
- 10.64. Paragraph 112 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.”
- 10.65. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.
- 10.66. The application form confirms approval is sought for access matters. 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;”
- 10.67. Permission for two vehicular accesses with footways to Field Lane is sought. The Local Highway Authority required amendments to the Transport Assessment regarding traffic

growth, committed developments, and traffic impact and assessment outputs. The Travel Plan required clarification regarding bus provision.

- 10.68. In response to submitted amendments to these documents the Local Highway Authority requested capacity testing for another junction, namely Leeds Road/A19, it also provides a list of additional committed developments it would like considered as part of junction capacity testing. It should be noted the list does not include the recently submitted application for outline planning permission reference ZG2023/0358/OUTM for up to 160 dwellings in Thorpe Willoughby. The LHA also raises concerns with the proposal within the ecological impact assessment to promote a woodland walk to the south of the A63 which would draw pedestrians over this national speed limit road. Pedestrians crossing a busy 60mph road should not be promoted unless safety precautions are put in place. Alongside the other committed developments this would be used by various occupiers allowing a greater potential for pedestrian and vehicular accidents. As a result, the LHA would require more information regarding the safety concerns raised and how this would be mitigated to be acceptable. 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.

Impact upon nature conservation, protected species and ancient woodland

- 10.69. Local Plan Policy ENV1 requires account is taken of the potential loss, or adverse effect upon, significant wildlife habitats.
- 10.70. 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 SINC's, 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.
- 10.71. Emerging local plan policy NE1 confirms proposals that result in the loss of deterioration of irreplaceable habitats including ancient woodland will be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Turning to the tests for weight that may be given to emerging local plan policies in NPPF paragraph 48, there are no unresolved objections to this policy, it is consistent with the NPPF in seeking to protect such areas, but the plan is only moderately advanced with submission for examination yet to take place. Policy NE1 is given limited weight at this stage but this situation could change in the coming months as the plan progresses.
- 10.72. NPPF paragraph 174 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 180 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".

- 10.73. The development plan policies are consistent with the NPPF and are given significant weight.
- 10.74. The Ecological Impact Assessment (EclA) sets out ecological mitigation and enhancement measures which could be incorporated readily into a Biodiversity Management Plan and Construction Environmental Management Plan (Biodiversity) such that harm to protected species would not arise.
- 10.75. The principal concern remains the potential for significant impacts on the ancient woodland at Brayton Barff SINC, a short distance to the east of the application site. The proposed development at Field Lane is one of three applications for new housing within easy walking distance of Brayton Barff currently under consideration, totalling over 400 dwellings. It is the nearest of the three sites. The ancient woodland at Brayton Barff is already subject to a high level of recreational pressure, which has a deleterious impact on the habitat through soil compaction and loss of natural vegetation. This is largely due to the sheer volume of footfall, resulting in the widening of paths, the proliferation of informal tracks and the creation of extensive bare areas. As the standing advice confirms, "Where a proposal involves the.....deterioration of ancient woodland.....you should not take account of the existing condition of the ancient woodland.....when you assess the merits of the development proposal. Its existing condition is not a reason to give permission for development." Additional effects are likely to include disturbance of wildlife and nutrient-enrichment associated with dogs defecating and urinating. The EclA concludes that "development of the Site has the potential to result in a minor negative impact on the SINC [Brayton Barff], due to increased recreational pressure". It is acknowledged that there would be some residual impact despite mitigation measures (paragraph 57). Proposed mitigation measures have been set out in item 4d of Table 4 of the EclA. These include providing access to woodland in the applicant's control to the south of the A63. It is stated that details will be provided in the Biodiversity Management Plan.

- 10.76. It is recognised that providing alternative recreational options would offset some of the pressure on the ancient woodland. Nonetheless, it is inevitable that development within a few hundred metres of Brayton Barff would lead to a significant net increase in footfall, especially when considered in combination with other proposed developments in the vicinity. The Field Lane site is the closest of the three current applications and therefore likely to be the most impactful. The woodland to the south could only be accessed by crossing the busy A63 which would act as a deterrent, so it is likely that a significant proportion of new residents would prefer to use the Barff for local walks and exercising the dog. The proposed mitigation does not demonstrate that the deterioration of irreplaceable habitat would be avoided.
- 10.77. The proposal does not demonstrate that the deterioration of irreplaceable habitat 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.

Affordable housing

- 10.78. 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. In the case of larger schemes, the affordable housing provision will be reviewed prior to the commencement of each phase. 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.
- 10.79. 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). This later SPD provides detailed guidance for securing affordable housing.
- 10.80. NPPF paragraph 64 permits affordable housing to be sought on major developments such as this. Paragraph 65 requires at least 10% of the total number of homes to be available for affordable home ownership (as part of the overall affordable housing contribution from the site). A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes in accordance with the Affordable Housing Update Written Ministerial Statement published on 24 May 2021.
- 10.81. Policy SP9 does not reflect the Ministerial Statement for First Homes so is out of date in this respect but does provide a broad basis for securing affordable housing. It is given some weight.

10.82. The application form states 44 (40%) affordable dwellings are proposed with a mixture of rented and affordable home ownership which complies with Policy SP9.

10.83. 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). A minimum of 10% of the homes should be for affordable home ownership. First Homes should account for at least 25% of all affordable housing units delivered. Overall, affordable housing policy requirements are as follows:

- A maximum of 40% of the total number of dwellings are to be affordable housing.
- Of these, 25% are to be First Homes (The 25% expected First Homes contribution for any affordable product can make up or contribute to the 10% of the overall number of homes expected to be an affordable home ownership product on major developments as set out in the NPPF).
- The remaining 75% shall, based on local need, be 60% rented and 40% intermediate. The rented shall be made up of social and affordable rent with social rent forming the greater proportion.
- Based on local need, rented accommodation should be mostly 1 and 2 bedroom accommodation, with a smaller proportion of 3 bedroom accommodation and an even smaller proportion of 4 bedroom accommodation; Intermediate tenures should be 2 and 3 bedroom housing.

10.84. Affordable housing is unresolved at this stage.

Recreational open space

10.85. 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.”

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

10.87. The NPPF at paragraphs 92-93 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 98 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.

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

10.89. The planning statement proposes “It is proposed in this case that the ROS requirements resulting from the proposed scheme would be provided within the

application site at a rate of 60m² per dwelling. The indicative layout plan provides for the required recreation open space, which will be accessible by the whole community.”

- 10.90. The indicative site layout shows the western section of the site as open space. Policy RT2 requires 6,600sqm of open space for 110 dwellings. The indicative site plan shows over 8000sqm of open space but no specific on-site equipment. Table 1 of the SPD requires the 60sqm per dwelling to be divided into individual type of green infrastructure. Section 5 of the SPD provides guidance on travel distances to facilities and paragraph 5.3 indicates a minimum size threshold for some facilities below which they should not be provided on site. Maintenance arrangements and ownership would need to be established. Open space matters are unresolved at this stage.

Contaminated land and ground conditions

- 10.91. 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.
- 10.92. 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.
- 10.93. NPPF paragraph 174 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 185 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 186 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.
- 10.94. These development plan policies are consistent with the NPPF and are given significant weight.
- 10.95. The contaminated land consultant confirms the preliminary investigation of land and 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.

- 10.96. 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

- 10.97. 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 130 (f) which seeks to ensure a high standard of amenity for existing and future users.
- 10.98. 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.
- 10.99. The application site is located in the countryside to the south of Thorpe Willoughby and there are residential dwellings to the north only, on the opposite site of Field Lane. The indicative site plan shows it will be possible at reserved matters stage to secure separation distances between existing and proposed dwellings that would prevent harm to residential amenity. These separation distances from the site and the intervening landscaping features mean there would be no harm to residential amenity.
- 10.100. 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.
- 10.101. 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

- 10.102. 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.
- 10.103. NPPF paragraph 194 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.

- 10.104. The LPA archaeologist does not require archaeological investigation and raises no objections to the proposal. Archaeological impacts are acceptable.

Noise and air pollution

- 10.105. The policies referred to in the contaminated land section above are relevant.
- 10.106. Environmental Health have considered the noise impact assessment and recommend conditions regarding noise mitigation, an emission mitigation statement related to the AQMA is Selby, scheme to protect residential amenity, construction hours and piled foundations. 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.

Other Matters - education, healthcare, waste and re-cycling

- 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. 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 seek contributions of £104,383.50 towards school expansion places at Hambleton Church of England voluntary controlled primary school; £316,187.30 towards school expansion places at Selby High School; £70,660.70 towards school expansion places for special school provision; and £88,324.50 towards school expansion places for early years provision.
- 10.115. NHS Humber and North Yorkshire Integrated Care Board seek contributions of £129,670.00 to fund works at the 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.
- 10.116. The LPA seek a Section 106 agreement or unilateral undertaking to provide at the developers cost two 240 litre wheeled containers and two 55 litre recycling boxes per dwelling. The reserved matters would need to accommodate waste and recycling access, collection and storage facilities.
- 10.117. These contributions are justified and would need to be secured on a per dwelling basis and with appropriate triggers for payment. The Infrastructure Funding Statement 2020/21 sets out CIL receipts will be prioritised for improvements to the strategic highways network; strategic flood mitigation measures; and healthcare provision. Healthcare impacts may still be mitigated via this method therefore care must be taken to prevent the same piece of mitigation being funded twice.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. 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. There are no development plan policies that support the principle of development nor are there material considerations within the NPPF or elsewhere, such as emerging Local Plan policies with sufficient weight, that indicate the proposal should be supported.
- 11.2. The conflict with the spatial development strategy and the scale and distribution of housing policies 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.

- 11.3. The application conflicts with the Minerals and Waste Joint Plan because it does not provide a minerals assessment. There would be unacceptable impacts upon mineral resources.
- 11.4. The proposal does not demonstrate that the deterioration of irreplaceable habitat would be avoided and there are no wholly exceptional reasons to support the proposal and a suitable compensation strategy does not exist.
- 11.5. The proposal fails to provide appropriate road junction testing and to demonstrate that the impact upon road capacity and safety would be acceptable. The proposal seeks to encourage access to woodland that requires pedestrians to cross the A63 which has not been considered within the wider proposal nor are the safety implications considered acceptable.
- 11.6. The site is considered to be in a relatively sustainable location for residential development with a range of services and facilities, and alternatives to car travel available.
- 11.7. Flood risk and drainage matters are acceptable subject to conditions. The potential housing density and mix are appropriate subject to condition. Affordable housing is unresolved at this stage but 40% is offered. Open space is unresolved at this stage. The impact on residential amenity is acceptable. The impact upon the character and appearance of the area and the setting of Brayton Barff LILA is acceptable. Archaeological impacts are acceptable. Environmental pollution and contamination are acceptable subject to condition. The need for developer contributions could be resolved by s106 agreement.
- 11.8. The application promotes economic benefits including job creation, new homes bonus and revenue in light of the council tax requirements of the properties, and increased residents spending in the area. Suggested social benefits include increased housing supply and delivery, including affordable housing and open space. Proximity to bus services, services and facilities as well as larger settlements is detailed. Suggested environmental benefits include tree planting, open space with meeting opportunities, biodiversity and landscape gains, low flood risk, dwellings built to building regulation requirements that contribute towards carbon savings and the climate change agenda. The applicant considers there to be significant social, economic and environmental benefits arising from the proposal. These suggested benefits are given moderate positive weight but are not considered to outweigh the significant harm that has been identified.
- 11.9. Therefore, on balance, it is concluded that the proposal is unacceptable in planning terms and conflicts with local and national planning policies as outlined below.

12.0. RECOMMENDATION

- 12.1 That planning permission be REFUSED for the following reasons:

- i. 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.

- ii. 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).
- iii. 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.
- iv. 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.
- v. 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.

Target Determination Date: 26/05/2023

Case Officer: Martin Evans, martin.evans@northyorks.gov.uk

Appendix A – Appeal decision APP/N2739/W/17/3181460

Appendix B – Indicative site plan