

North Yorkshire Council

Community Development Services

Selby and Ainsty Area Constituency Planning Committee

13th March 2024

2022/1236/FULM - RESIDENTIAL DEVELOPMENT CONSISTING OF 66 DWELLINGS, WITH ASSOCIATED LANDSCAPING AND HIGHWAYS, DEMOLITION AND OFF SITE HIGHWAYS WORKS AT GARDEN LANE SHERBURN IN ELMET

Report of the Assistant Director - Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine a full planning application for the development of 66 dwellings with associated landscaping and highways and demolition and off site highways works at land at Garden Lane, Sherburn In Elmet. The proposal is that all the dwellings will be provided as affordable units either as affordable rent, shared ownership or rent to buy for those with local connections.

1.2 This application is reported to Committee because the Head of Development Management considers this application to raise significant planning issues and has been previously considered by planning committee, such that it is in the public interest for the application to be considered by Committee. The application had also been referred to Committee by the Division Member, Councillor Packham, and a site visit requested which has been agreed to.

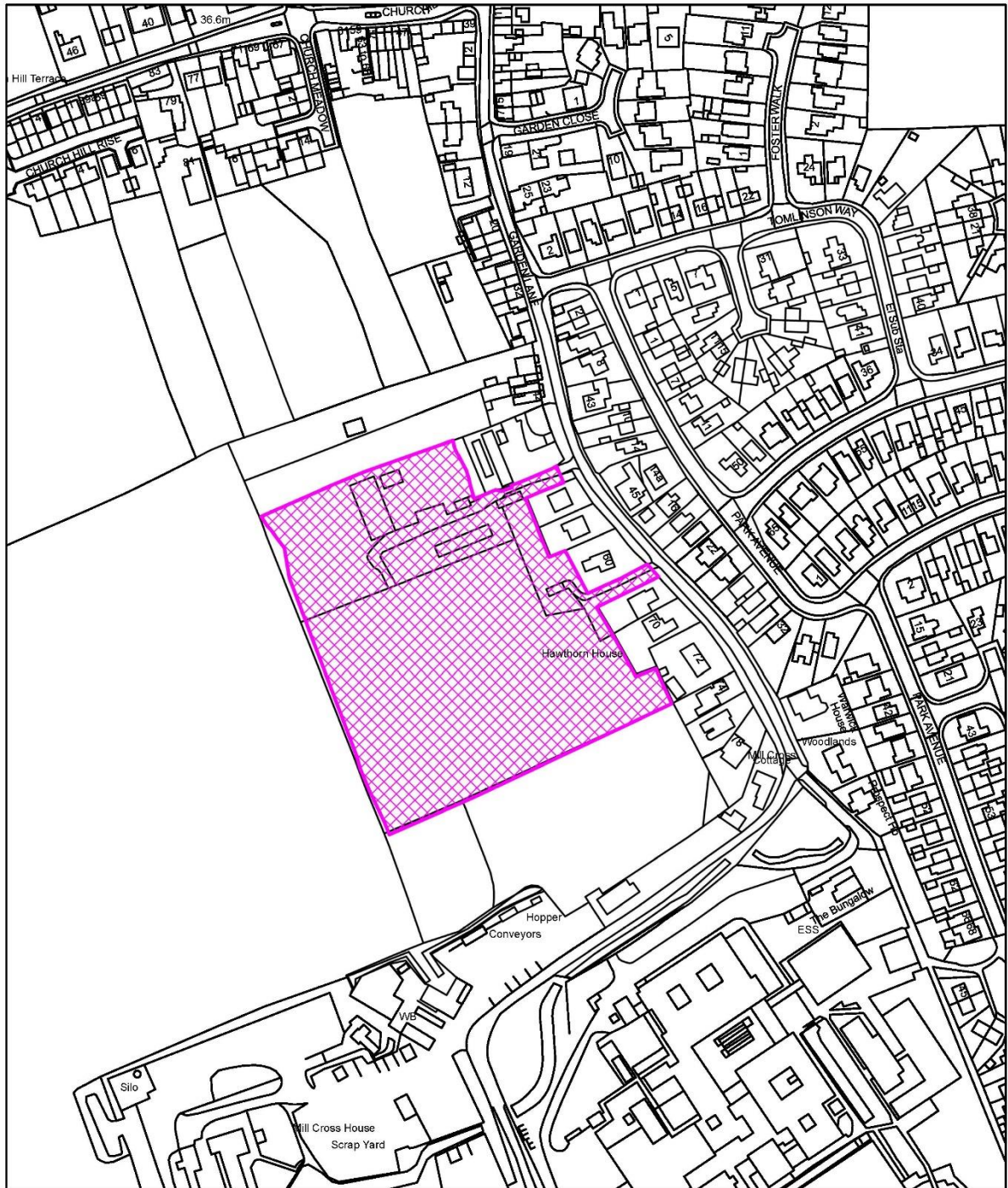
2.0 SUMMARY

RECOMMENDATION: It is recommended that full planning permission be refused for the reasons stated in section 12 of this report.

- 2.1. This is an application for full planning permission the development of 66 dwellings with associated landscaping, demolition and on and off-site highways works at land at Garden Lane, Sherburn In Elmet. The proposed dwellings are a mix of 1 to 4 bed, are two storey and will all be offered as affordable housing units as either shared ownership, affordable rent or buy to rent. The occupancy of the units is also proposed to be for those with a local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first in terms of the letting criteria.
- 2.2. Garden Lane itself not only serves existing residential properties as well as Sherburn High School and the Mytum and Selby Waste Recycling Centre. The site is safeguarded land outside the development limits of the settlement.

- 2.3. The site is vacant agricultural land which includes a series of semi-derelict structures and is safeguarded land outside the development limits of the settlement. The proposal would be the release a large part of a safeguarded site of Greenfield site outside of development limits. It would therefore conflict with the fundamental aims of Policies SP1 and SP2 of the Core Strategy, which should be afforded substantial weight. However, given that the scheme will provided 100% affordable housing and that it would not lead to an unacceptably high level of growth in a sustainable settlement it is considered that on balance it is an appropriate time to allow the release of this land for development. Affordable Housing Officers have raised no objection to the scheme and the mix of development proposed is considered to amount to material consideration that overrides the conflicts with the spatial strategy. On balance the scheme is considered acceptable in principle and the material considerations do outweigh the conflict with Policies SP2 of the CS and SL1 of the SDLP.
- 2.4. The scheme has been subject of detailed technical discussions and there are no outstanding technical issues in relation layout and design and it is considered that on balance the scheme can be supported in these terms. Contributions have also been secured in relation to ecological mitigation and in relation to waste and recycling. As such the scheme is considered acceptable in terms of policies in the Core Strategy and saved policies of the Local Plan as well as guidance within the NPPF.
- 2.5. However, the scheme is recommended for refusal on the basis that the applicants have failed to demonstrate through an open book viability assessment that the development is not able to make contributions on education and / or healthcare. Therefore, the development fails to mitigate against impacts on services provision for education and healthcare and as such it is contrary to Policy SP12 of the Selby Core Strategy Local Plan and the approach of the NPPF which supports the securing of developer contributions to mitigate the impact of development on communities.

Land West of Garden Lane, Sherburn in Elmet
2022/1236/FULM



©Crown Copyright and Database Rights 2024 Ordnance Survey AC0000825864.
Produced specifically for Planning and Building Control purposes only.
No further copies may be made.



1:2,500
Do not measure from plan

3.0 PRELIMINARY MATTERS

- 3.1. Access to the case file on Public Access can be found here:- [2022/1236/FULM | Residential development consisting of 66 dwellings, with associated landscaping and highways, demolition and off-site highways works | Land West Of Garden Lane Sherburn In Elmet North Yorkshire \(selby.gov.uk\)](https://www.selby.gov.uk/2022/1236/FULM | Residential development consisting of 66 dwellings, with associated landscaping and highways, demolition and off-site highways works | Land West Of Garden Lane Sherburn In Elmet North Yorkshire (selby.gov.uk))
- 3.2. The application was submitted in 2022 and was originally for 74 dwellings, which was reduced to 67 and then to 66 units as shown on the Proposed Site Layout reference P20. The revisions secured not only a reduction in the number of dwellings but a increase in the extent of recreational open space provided on site and address those matters arising through the consultations.
- 3.3. In terms of the planning history of the site, Application 2017/0621/OUTM for outline consent for residential development of up to 27no. dwellings with access (all other matters reserved) was refused by Selby District Council on the 25th September 2019. This related to part of the site subject of the current application and was to develop it for 15 affordable units and 12 self-build units.
- 3.4. The 2017 application was amended in February 2019 to reduce the site area and the number of dwellings from 69(no.) to 27no. This change was made by the Applicants following discussions with NYCC Highways on capacity / impacts and to seek to respond to other issues raised through the initial consultations. A full re-consultation was undertaken at this stage by the Council. The application remained in outline form with all matters reserved other than access and the applicants made additional submissions in support of the scheme to respond to initial consultations and support the reduced scheme.
- 3.5. However, the 2017 application was refused under delegated powers on the 25th September 2019 on the following grounds:

“The release of Safeguarded Land at Sherburn In Elmet conflict with SDLP Policy SL1 Safeguarded Land; Policy SP2 of the Core Strategy and the approach of the NPPF, and no material considerations have been provided of sufficient weight to outweigh the harm in terms of the spatial strategy for the location of development within the District or to support the release of the site at this time. As such the scheme is considered to be contrary to the Development Plan as defined under Section 38 (6) of the Town and Country Planning Act 2004 and Paragraph 11 and 12 of the NPPF.”
- 3.6. A subsequent Appeal (ref APP/N2739/W/20/3249599) was considered via a Hearing, with all matters being reserved so access was removed from the appeal consideration. The Inspector dismissed the appeal on the 22nd February 2021. In considering the appeal the Inspector considered the main issues to be:

- i. Whether the proposed development complies with saved Policy SL1 and Policy SP2 of the Development Plan.
- ii. If there is a conflict with the Development Plan, whether there are material considerations which would justify a grant of planning permission.

3.7. The appeal was dismissed with the Inspector noting that:

- The appeal scheme is contrary to Saved Policy SL1 of the SDLP, Policy SP2 of the CS and the provisions of the National Planning Policy Framework.
- Acknowledged that the Council has provided a reasonable level of Affordable Housing in proportion to established demand, the provision of affordable housing is nonetheless a material consideration that weighs in favour of the proposal which he gave considerable weight.
- The provision of Self Build housing is a material consideration that weighs in favour of the proposal which he gave considerable weight.
- The supply of Affordable Housing and Self Build are material considerations that weigh in favour of the appeal scheme in the planning balance. However, on the basis of the evidence provided, in particular relating the current supply and demand situation with regards both Affordable Housing and Self Build, concluding that these do not outweigh the conflict with the Development Plan.

4.0 SITE AND SURROUNDINGS

- 4.1. The site is vacant agricultural land which includes a series of semi-derelict structures situated to the west of Sherburn in Elmet on Garden Lane at the edge of the built settlement of Sherburn-in-Elmet. Garden Lane itself not only serves existing residential properties as well as Sherburn High School and the Mytum and Selby Waste Recycling Centre.
- 4.2. The application site is not within a conservation area, nor are there any listed buildings in close proximity to the site. There are also no trees on the site or adjacent to it subject to protection via a Tree Preservation Order. The site is within Flood Zone 1 and is therefore at low risk of flooding. Sherburn Willows SSSI located 0.7km from the site.
- 4.3. There is a mix of housing within the immediate vicinity of the site including traditional terrace stock, detached properties as well as recent new builds and earlier estates to the east.

5.0 DESCRIPTION OF PROPOSAL

- 5.1. This application seeks full planning permission for the development of 66 dwellings with associated landscaping and highways, demolition and off-site

highways works at land at Garden Lane, Sherburn In Elmet. The dwellings are proposed to be two storey, a mix of 1 to 4 bed. They will all be offered as affordable housing units as either shared ownership, affordable rent or buy to rent. The occupancy of the units is also proposed to be for those with a local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first in terms of the letting criteria.

5.2. The submission plans consist of:

- Location Plan - Ref 571-05-BBA-01-00-DR-A-0202-P04
- Topographical Survey – Ref P22-00599-MET-EXT-XX-TOP-M2-G-001-01
- Topographical Survey – Ref P22-00599-MET-EXT-XX-TOP-M2-G-002-01
- Existing Site Plan - Ref 571-05-BBA-01-00-DR-A-0203-P03
- Existing Site Sections - Ref 571-05-BBA-01-00-DR-A-0232-P01
- Proposed Site Layout Plan - Ref 571-05-BBA-01-00-DR-A-0201-P23
- Boundary Treatments Plan - Ref 571-05-BBA-01-00-DR-A-0203-P16
- Levels Plan - Ref 571-05-BBA-01-00-DR-A-0205-P12
- Tenures Plan - Ref 571-05-BBA-01-XX-DR-A-0001-P04
- Proposed POS Plan - Ref 571-05-BBA-01-00-DR-A-0208-P11
- Soft and Hard Landscaping Strategy - Ref 571-05-BBA-01-00-DR-A-0207-P15
- Materials Mix Plan - Ref 571-05-BBA-01-00-DR-A-0206-P11
- Proposed Roof Plan - Ref 571-05-BBA-01-00-DR-A-0209-P11
- Proposed Street Scene Sections - Ref 571-05-BBA-01-00-DR-A-0231-P03
- Drainage Strategy Plan - Ref 10-5923-SK-500C
- Drainage Catchment Plan - Ref 10-5923-SK501B
- Bin Collection Plan - Ref 571-05-BBA-01-00-DR-A-0240-P11
- EV Charging Point Plan - Ref 571-05-BBA-01-00-DR-A-0241-P10
- Proposed Carriageway Widening Plan - Ref 229810 received 6th November 2023
- Proposed Carriageway Widening Plan - Ref 229811 received 6th November 2023
- Proposed Carriageway Widening Plan - Ref 229812 received 6th November 2023
- Pumping Station Elevations - Ref 571-05-BBA-01-00-DR-A-9050-P01
- Pumping Station Details and Layout - Ref YW-DS-SPS-007
- Proposed Separation Plan - Ref 571-05-BBA-01-00-DR-A-0270-P07
- Proposed Site Sections - Ref 571-05-BBA-01-00-DR-A-0233-P05
- Block Type AAA - Ref 571-05-BBA-ZZ-ZZ-DR-A-0260-P01
- Block Type AAAA - Ref 571-05-BBA-ZZ-ZZ-DR-A-0261-P01
- Block Type BBB - Ref 571-05-BBA-ZZ-ZZ-DR-A-0262-P02
- Block Type BE - Ref 571-05-BBA-ZZ-ZZ-DR-A-0263-P02
- Block Type BE01 - Ref 571-05-BBA-ZZ-ZZ-DR-A-0264-P02
- Block Type CBC - Ref 571-05-BBA-ZZ-ZZ-DR-A-0265-P02

- House Type A - Ref 571-05-BBA-ZZ-ZZ-DR-A-0210-P02
- House Type B - Ref 571-05-BBA-ZZ-ZZ-DR-A-0211-P04
- House Type C - Ref 571-05-BBA-ZZ-ZZ-DR-A-0212-P04
- House Type E - Ref 571-05-BBA-ZZ-ZZ-DR-A-0214-P02
- House Type F - Ref 571-05-BBA-ZZ-ZZ-DR-A-0215-P02
- Block Type AA - Ref 571-05-BBA-ZZ-ZZ-DR-A-0220-P03
- Block Type BB - Ref 571-05-BBA-ZZ-ZZ-DR-A-0221-P04
- Block Type AB - Ref 571-05-BBA-ZZ-ZZ-DR-A-0224-P04
- Block Type BAE - Ref 571-05-BBA-ZZ-ZZ-DR-A-0226-P04
- Block Type BAA - Ref 571-05-BBA-ZZ-ZZ-DR-A-0227-P05
- Block Type FFFF - Ref 571-05-BBA-ZZ-ZZ-DR-A-0229-P02
- Block Type BAB Elevations & Floors - Ref 571/05-BBA-ZZ-ZZ-DR-A-0228 Rev P02

5.3. A series of technical reports have also been submitted with the application including:

- Planning Statement prepared by DPP Planning dated October 2022
- Support Statement received October 2023
- Design and Access Statement Rev C prepared by URBAN / BBA dated Oct 2023
- Statement of Community Involvement prepared by DPP Planning dated Oct 2022
- Affordable Housing Appraisal prepared by Tetlow King Planning dated Oct 2022
- Affordable Housing Response dated 14th August 2023 prepared by Tetlow King
- Archaeological Evaluation Report prepared by On Site Archaeology Ltd dated March 2023
- Flood Risk and Drainage Strategy Rev B prepared by ward Cole dated July 2023
- Soakaway Testing dated 8th October 2023
- Surface Water Drainage Hydraulic Simulation Results received October 2023
- Arboricultural Survey prepared by Arbtech dated August 2022
- Transport Assessment prepared by VIA Solutions dated September 2022
- Framework Travel Plan prepared by VIA Solutions dated September 2022
- Phase 1 Geo-Technical Report prepared by ARC Environmental, March 2021
- Preliminary Ecological Appraisal and Preliminary Roost Appraisal prepared by Arbtech dated August 2022
- Preliminary Ecological Appraisal prepared by Arbtech dated July 2023
- Biodiversity Net Gain Assessment Documents and Plans prepared by Arbtech received 10th January 2024

- Minerals Assessment prepared by GRM Development Solutions dated October 2023

5.4. The application has been amended during its consideration and the latest scheme was submitted in October 2023. This reduced the number of units from 67 to 66. The main driver for changes to the layout was to ensure that the scheme provided recreational open space in accordance with Policy RT2 of the Selby Local Plan (2005) and to address comments on the layout from consultees.

5.5. Access to the site is proposed via a single access point from Garden Lane. There will be an emergency access adjacent to 60 Garden Lane, which will also allow for pedestrian access into the site and retain access to 60 Garden Lane. Visibility splays have been confirmed on the main access at 2.4m x 43m in both directions within the Transport Assessment on Dwg 2209801 at Appendix D of the document.

5.6. The proposed highways improvements include widening along Garden Lane (as shown on Plans Ref 229810, 229811 and 229812 received 6th November 2023. These include works to wider the carriageway and improve Garden Lane. Works are also noted on the Proposed Site Layout Plan P23 and include provision of an extra footway towards the school as well as footpath repairs.

5.7. The internal highways layout shows the provision of footpaths through the site with links being in place from Garden Lane, as well as pedestrian access also being possible via the emergency access adjacent to 60 Garden Lane. The road hierarchy is also varied with a main access loop within the site and then shared surfaces and private drives leading off this route. Car parking for the new dwellings is provided largely through parking to the front or sides of dwellings and visitor parking is also provided within the scheme.

5.8. The proposed mix of dwellings on the site is as follows:

House Type F	1 bed	4(no)
House Type A	2 bed	26(no)
House Type B	3 bed	30(no)
House Type E	3 Bed	4(no)
House Type C	4 bed	2(no)

5.9. The tenure split is for these is shown on the submitted plan Tenures Plan, as follows:

1 bed units	4 Affordable Rent
2 bed units	26 Affordable Rent
3 bed units	7 Affordable Rent / 19 Rent to Buy and 8 Shared Ownership

4 bed units 1 Rent to Buy and 1 Shared Ownership

- 5.10. The design of the dwellings utilises features such as door canopies, cobble courses under the eaves, brick course variation and artificial stone cills window detailing to define the elevations of the properties. All units are two storey construction and are arranged in terrace or semi configurations across the site. The House Type F is a 1 bed unit which are built in a quarter house format with each unit having its own front door and accommodation over two floors.
- 5.11. The proposed materials for the scheme are shown on submitted drawing “Materials Mix Plan Ref 571-05-BBA-01-00-DR-A-0206-P11”. These are noted as being a mix of red brick or artstone for the walls. The roofing materials are noted in the Design and Access Statement Addendums as intended to be pantile roof tiles and windows, doors and door canopies are noted as being proposed to be grey uPVC. All guttering and downpipes are proposed to be black uPVC.
- 5.12. The boundaries are shown on submitted Boundary Treatments Plan (Ref 571-05-BBA-01-00-DR-A-0203-P16) and are a mix of approaches including varying height close boarded fences, walls, metal railings and timber and post rails as well as metal paladin fencing. The boundary treatments to the open boundaries on the west and south are a mix of 1.8m close boarded fences and 900mm post and rail as well as retaining hedgerows and enhancement of some areas of existing hedgerow.
- 5.13. In terms of open space provision within the site then the scheme incorporates three areas of open space within the site which include seating, play provision and a defined dog walking trail. The areas of open space are proposed to be passed to a management company and total 4,149 square metres (which is equal to 62.9 sq.m. per dwelling).
- 5.14. The landscaping strategy for the site has been set out within the application information on the submitted “Soft and Hard Landscaping Strategy Ref 571-05-BBA-01-00-DR-A-0207-P15” plan. Full details of the landscaping within the layout are not provided the applicants have indicated that the details of the scheme would follow the strategy shown on the submitted drawing which includes tree planting in the open space areas, and tree planting in frontage and garden areas.
- 5.15. The drainage approach for the site utilises a mix of attenuation with an associated surface water drainage strategy which will connect into the existing systems provided by Yorkshire Water. The applicants have demonstrated that soakaways would not be effective on the site and have confirmed that Surface water will discharge to public surface water sewer via storage with pumped rate

of 3.5 litres per second. Foul water is proposed to go to the public combined sewer. A pumping station is also shown to be provided on the site in the northeast corner.

- 5.16. The ecological mitigation shown as part of the scheme focus on the enhancement of hedgerows and the landscaping approach for the site. The submitted Preliminary Ecological Appraisal confirms that mitigation is required and the developer has confirmed that they will install 10 (no) bat boxes on mature trees around the site boundaries, install 10 (no) bird boxes in similar locations or on the new dwellings as well as providing habitat within open spaces. In addition, they have offered a package of ecological mitigation which would be secured under a S106 agreement and is set out in the Report.

6.0 PLANNING POLICY AND GUIDANCE

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

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
- Selby District 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 this has resulted in the Council agreeing to consult on a further Revised Pre-submission Publication

(Regulation 19) Consultation in Spring prior to submission to 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.

- 6.4 The North Yorkshire Local Plan - no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

- 6.5 Relevant guidance for this application is:
- National Planning Policy Framework 2023
 - National Planning Practice Guidance
 - National Design Guide 2021
 - Affordable Housing Supplementary Planning Document, 2013
 - Developer Contributions Supplementary Planning Document March 2007
 - Sherburn in Elmet Village Design Statement, December 2009
 - Strategic Housing Market Assessment, February 2019 (Section 5- Affordable Housing Need / Section 6 Need for Different Types and Sizes of Homes)
 - Strategic Housing Land Availability Assessment, September 2022
 - Five Year Housing Land Supply Report 2022-2027 (position at 31st March 2022) published September 2022.

7.0 CONSULTATION RESPONSES

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

- 7.2. **Sherburn in Elmet Town Council** – initial comments (21st December 2022) made the following objections:-

Suitability for Development

The land in question is designated as 'safeguarded' for development if needed. Sherburn in Elmet has seen vast growth in recent years, with c. 1200 new properties added. This greatly exceeds any other neighbouring community's contribution to Selby's housing need. Similar applications for 60+ houses, later reduced to 27 houses, were previously refused on grounds of suitability. Section 3.12 of the Planning Statement submitted with this application

highlights that: "There is no justification to give planning permission for the development of any safeguarded land in an ad hoc way at this stage given the significant contribution Sherburn in [sic] making to the overall supply of new houses in the District.

Public Transport

The Town Council also noted that the data used in the public transport survey is flawed. Whilst it acknowledges the frequency of the services (every 120 minutes), it ignores the duration of these journeys. The latter is a vital piece of information which, currently, makes the use of public transport unviable for many. Section 4.1.2 of the Framework Travel Plan states that:

"The purpose [of the Travel Plan] is to make the more sustainable transport modes safe and practical and therefore attractive to residents and their visitors".

It is the Town Council's view that there will be a greater use of personal vehicles than is predicted in the application.

Highways Safety

A number of residents have highlighted concerns about the safety of the access road proposed. The Town Council does not believe it to be suitable for the level of additional vehicles this development would bring and has genuine concerns about the safety of residents using this road network either on foot, by bike or by car. There are also significant concerns raised about road safety during school collection times, with the High School located at the end of Garden Lane. Section 3.5 of the Planning Statement recognises that previous applications were refused as Garden Lane "did not have the capacity to absorb a development of this scale". This latest application is much larger than the 27 houses which were previously refused, so it is the Town Council's understanding that this issue still remains.

Environmental Impact

Section 4.13 of the Affordable Housing Appraisal states that: "By any measure of affordability, Selby district is facing significant affordability challenges and urgent action is needed to deliver more affordable homes." It is the Town Council's view that affordable homes must continue to be affordable after the point at which have been occupied. It is unclear from the documents available how long-term affordability will be achieved. Beyond EV charging points, there is no mention of other affordability measures, from energy self-sufficiency (e.g. solar panels), heating (e.g. heat pumps), and other such cost-saving initiatives for future occupants (e.g. Passivhaus standard). Policy SP15 of the Selby District Core Strategy Local Plan ('Core Strategy'), adopted in October 2013, states that:

"In order to ensure development contributes toward reducing carbon emissions and are resilient to the effects of climate change, schemes should where necessary or appropriate:

Improve energy efficiency and minimise energy consumption through the orientation, layout and design of buildings

Incorporate sustainable design and construction techniques, including for example, solar water heating storage, green roofs and re-use and recycling of secondary aggregates and other building materials, and use of locally sourced materials;...

h) Incorporate decentralised, renewable and low-carbon forms of energy generation."

Furthermore, Policy SP16 of the Selby District Core Strategy Local Plan ('Core Strategy'), adopted in October 2013, also states that:

"to promote increased resource efficiency unless a particular scheme would be demonstrably unviable or not feasible, the Council will require: New residential developments of 10 dwellings or more or non-residential schemes of 1000m² gross floor space or more to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub-regional or local targets)."

Without addressing these areas, further burden will be placed on local and national infrastructure, which must be avoided at all costs. This is particularly important where affordable housing is concerned.

Ecology

Additionally, the Town Council echoes concerns raised by residents about the potential displacement of existing wildlife, and the Yorkshire Wildlife Trust's (YWT) conclusion that the site is yet to demonstrate that its impact on the environment will be positive, rather than negative. The applicant states that there will be no detrimental effect on Sherburn Willows Site of Special Scientific Interest (SSSI); however, YWT does not agree with that assessment (as outlined in their response).

Designing Out Crime

The Town Council is concerned that the submitted plans have not adequately demonstrated Designing Out Crime (e.g. as outlined in detail in the Designing Out Crime Report from North Yorkshire Police).

Site of Archaeological Interest

The Town Council also notes that the site is of archaeological interest, with Roman artefacts already having been discovered at a nearby plot of land. As a

minimum, the Town Council would expect to see the requests of Heritage Services for trial trenching to be actioned.

Affordable Housing Levels

Finally, the Town Council welcomes the commitment to affordable housing at the site (100%), but it is concerned that later amendments may be made to reduce this level, as has been the case with other applications in the area. Notwithstanding from the significant objections listed above, if planning were to be granted, the Town Council would ask for reassurance that negotiations to reduce the level of affordable housing will not take place at a later date.

Additional comments were received from the Town Council to the consultation on the revised plans in November 2023 that noted:

Road and Footpath Safety

It is noted that North Yorkshire Highways stated in September that they object to the development due to access issues, amongst other reasons.

Note the proposal to widen Garden Lane to the 5.5m required by Highways, but this would create even narrower footpaths for pedestrians along this stretch. Would also ask whether local residents — who will be directly affected by these works — have been consulted on this element of the redesigned proposal, not least because the designs refer to “assumed” boundaries.

Furthermore, the proposals to widen Garden Lane will not address significant concerns about safety and congestion during peak hours, such as at school drop-off and collection, satisfactorily.

Paragraph 111 of the NPPF confirms that development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. The Town Council believes that both of those conditions would be triggered under the current proposals, and thus the application should be refused unless alternative access route(s) can be achieved.

Paragraph 112 of the NPPF also states that “applications for development should ... create places that ... minimise the scope for conflicts between pedestrians, cyclists and vehicles”. As with Paragraph 111 above, the Town Council does not believe that this requirement has been met.

Environmental initiatives

The Town Council notes and welcomes the changes to the proposal in relation to active travel and energy generation (all homes will have cycle storage, EV chargers, air source heat pumps rather than gas, and south-facing roofs and

others, where appropriate, will be fitted with solar panels), meaning that overall affordability is improved in the long-term for occupiers.

However, many of the actions outlined to support and improve biodiversity at the site remain disappointingly noncommittal at this stage. The Town Council would like to see stronger commitments around the methods to be adopted to achieve a net gain in biodiversity. For instance, seek assurances that the schemes outlined in the Preliminary Ecological Appraisal conducted by Arbtech in July 2023, as well as elements like hedgehog highways, bird bricks and boxes, and bat boxes, will be implemented rather than presented as guidance or suggestions. Biodiversity net gain commitments should be a condition of approval, as stated in our original response and in North Yorkshire Council's Heritage Services' response dated 20 September 2023.

Local Infrastructure and Capacity

The plans do not address the lack of new infrastructure to support demand created by development in Sherburn, as well as overcapacity of existing provision. The Humber and NY Health and Care Partnership has stated that approval will have an impact on existing healthcare provision, with no mitigation outlined. "The existing GP practice does not have capacity to accommodate the additional growth resulting from the proposed development". We seek clarity as to whether this data factors in the ongoing development and expansion to the Sherburn GP Practice. Existing residents should not suffer because of overcapacity and insufficient local infrastructure provision generated by new developments.

Other comments

Acknowledge the findings of the trial trenching conducted following our previous comments and have no further comments to make at this time.

The Town Council considered that these comments should be considered alongside those made in December 2022.

- 7.3. **NYC Highways** – Confirmed that having considered the improvements shown on the Proposed Site Plan (received 13th November 2023) the Proposed Carriageway Widening Drawings 2209810 / 2209811 and 2209812 which show that the applicant is to increase the existing Garden Lane highways from 4.0m to 5.5m alongside a new footpath for pedestrians they have no objections to the development. A further comment received on the 11th December 2023 noted that "should the development be carried out the road widening on Garden Lane should be completed prior to construction of the dwellings, so as to prevent any issues with delivery vehicles at the peak traffic times". A series of conditions are also noted relating to:

- Provision of detailed plans for the roads and footways by way of full engineering drawings of these as well as details of any structures which affect or form part of the highway network and a programme for delivery (Std Condition MHC-01)
- Construction of Adoptable Roads and Footways (Std Condition MHC-02)
- Visibility Splays for main access onto Garden Lane (Std Condition MHC-06)
- Travel Plan (Std Condition MHC-13)
- Travel Plan Delivery (Std Condition MNC-14)
- Construction Management Plan (Std Condition MHC-15A)

7.4. **Public Rights of Way Officer** – Confirmed there are no Public Rights of Way in the vicinity of the site.

7.5. **Housing Strategy / Rural Housing Enabler** - A series of comments have been received on the application which have considered the submitted scheme as it has evolved.

Comments in January 2023 noted that: “The tenure of the units is intended to be 70/30 consisting of two and three bed homes. Tenure split and the type of housing being sought will be based on the Council’s latest evidence on local need. This comes in the form of the HEDNA (2020) which advises that, as per NPPF 2019 – a minimum of 10% of the homes should be for affordable home ownership, but there is no evidence to increase this amount. In terms of rented accommodation, both social and affordable rent are required, with a need for social rent more prominent. From 28 June 2021, the definition of affordable housing now contains First Homes - the government’s preferred discounted market tenure. First Homes should account for at least 25% of all affordable housing units delivered by developers through planning obligations (but will not apply to sites with full or outline planning permissions already in place or determined before 28 December 2021, or 28 March 2022 if there has been significant pre-application engagement). The HEDNA also provides local need information relating to bedroom size. For rented accommodation, preference is towards 1 and 2 bedroom accommodation, with some 3 and few 4 bedroom requirements. For intermediate tenures, preference is 2 and 3 bedroom housing. Whilst the proposed is aiming to provide some niche housing sizes the proposed site there is still the predominate 2 and 3 bed housing, which has been previously delivered and could be argued has been met elsewhere within the area already”.

The Officer has noted the following general comments:

- The scheme is within a Designated Protected Area. The Housing (Shared Ownership Leases) (Exclusion from Leasehold Reform Act 1967) (England) Regulations 2009 (Statutory Instrument 2009/2097)

therefore requires landlords to include in any Shared Ownership lease, for houses within a protected area, provisions to either:

- Restrict the leaseholder's equity share to a maximum of 80%; or
 - Ensure that once the leaseholder has acquired 100% share of the house, it is sold back to the landlord when it becomes available for resale.
- Early contact should be made with a registered provider
 - Units should meet national space standards
 - The Section 106 agreement contains a clause to ensure the properties are allocated to households with a local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first as a local letting Criteria.

In commenting on later schemes on the 2nd August 2023 the Officer noted that tenure mix was acceptable.

Comments on the 30th August 2023, the Officer responded to the further justification made by the Applicants it was confirmed that the tenure mix and plan was acceptable. Further comments were made on the affordability indicators and demand for affordable housing units in the area, as well as level of people seeking affordable units in the area.

Comments made on the 8th November 2023 again confirmed that the scheme was above the 40% provision noted in policy and that the mix is acceptable, that the scheme meets the national space standards and that the scheme is a Designated Protected Area so leases will need to include relevant clauses to secure provisions to Restrict the leaseholder's equity share to a maximum of 80%; or ensure that once the leaseholder has acquired 100% share of the house, it is sold back to the landlord when it becomes available for resale. The Officer also restated that the S106 should contains a clause to ensure the properties are allocated to households with a local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first as a local letting Criteria.

- 7.6. **Landscape Officer** - The later comments advised that the scheme could be further improved in terms of the soft and hard landscaping strategy, the proposed POS Plan, boundary treatments and the approach to the access link to possible future phases. The comments made can be summarised as are as follows:

Soft and Hard Landscaping Plans and Strategy

- To improve connectivity and pedestrian movements from the relatively small areas of open spaces and reduce highways dominance the

suggest use of block paving across the carriageways and/or to the pavements to one side of the road to create a visible link between the open spaces.

- Narrow beds between the parking beds and private footpaths are exceptionally narrow – these should be increased to increase soil volume and increase planting.
- Tree planting needs to be more varied and extensive – this could include alternative approaches on grass planting, addition of shrubs in key areas (such as to the front of plots 1-8) which could be picked up by condition.
- Temporary planting should be added to the at the end of roads linking to possible later phases of development.

Approach on Public Open Space (POS)

- Notes that the narrow areas of planting between buildings should not be considered as part of the POS as do not contribute.
- If the Local Area of Play needs to be fenced this should include some of the POS surrounding the equipment so it blends into the wider area.

Boundary Treatments

- The proposed layout does not seem to have taken into account the overshadowing effect of the existing small plantation bordering the southwest corner of the site (referenced as W01 in the Arboricultural survey), which appears to be outside of the applicant's ownership.
- The built development has been moved further away from the trees within the garden of no. 70. However, this is still quite tight given the small size of the proposed rear gardens, therefore greater space should be provided if the likelihood of conflict between neighbours is to be reduced.

Comments made by the Landscape Officer from 28th August 2023, do support the use of a Condition to secure a full landscaping scheme requiring submission of a scheme within 3 months of the commencement of development.

7.7. **Environment Agency (Liaison Officer)** – The application falls outwith the consultation checklist for them and therefore they have no objections or comments on the application.

7.8. **Lead Local Flood Authority** – a series of comments have been received on the application which have considered the submitted FRA & Drainage Strategy, soakaway testing and drainage plans. Their comments can be summarised as follows:

Run Off Destinations

The applicant has stated that the properties will discharge their surface water at a controlled rate to the surface water sewer. The LLFA has received satisfactory reports showing that infiltration of surface water to the ground is not viable.

Flood Risk

There is significant surface water pooling in the north of the site. The applicant suggests that the attenuation basin will accommodate a 1% event plus 30% climate change and in addition will accommodate the additional pooling within this low area of the site. The applicant has suggested that exceedance flows will be directed towards the open space. It is noted that the pumping station will also be located adjacent to the open space. It is assumed that Yorkshire water will require the pumping station to be protected from the exceedance flows directed towards the open space.

Peak Flow Control

The peak run off rate will be controlled at 3.5 l/s to limit the discharge to Yorkshire Water requirements.

Volume Control

Initial comments on the submission requested that the approach to volume control was reviewed by the applicants. Additional information was provided and the SUDS Officer has confirmed that the scheme meets their requirements on volume control.

Pollution Control

Pollution from surface water runoff from the development from parking areas and hardstanding areas should be mitigated against by the use of oil interceptors, roadside gullies, reedbeds or alternative treatment systems.

Designing for Exceedance

An exceedance plan has been included. It is noted that the attenuation basin will have additional storage as it is placed in the low point where the EA Flood Risk for Surface Water indicates significant pooling for the 3.33%, 1% and 0.1% event. In addition, the sites exceedance flow paths are also directed to the area where this surface water will pool.

Climate Change and Urban Creep

An allowance of at least 40% must be made in SuDS design for increased amounts of rainfall as a result of Climate Change. Additionally, a 10% allowance must be made in the designed SuDS for Urban Creep.

Maintenance and Construction Plan

Arrangements for the maintenance of the proposed SuDS surface water runoff attenuation features should be submitted to the Local Planning Authority as part

of the proposals, this may be subject to a Section 38 agreement with the NYCC Highways department and additionally a Section 104 agreement with Yorkshire Water.

The LLFA Officer has been asked to consider the comments from Yorkshire Water of the 30th October 2023 and following receipt of additional information from the Applicants on the drainage approach which confirmed that

- a. surface water drainage, it is not economically viable to discharge runoff into Mill Dike, the nearest watercourse to the site. As explained in the FRA & Drainage Strategy report, Mill Dike, flows approximately 550m to the southwest.
- b. The ground between the site and Mill Dike – third party land - rises at least 5m before falling towards the Dike.
- c. Yorkshire Water indicated possible discharge of runoff to a land drain in the area. Discharging runoff from a development into land drainage would be unusual if not impermissible. Land drainage is not included in the drainage hierarchy. Again, the surface water outfall would need to run through third party land to a drain whose location, route, capacity, invert level, etc is unknown.
- d. Additionally, they confirmed YW were consulted whilst devising the FRA and drainage strategy and this is evidenced in the FRA & Drainage Strategy Report.

As such the Officer has advised that as the developer has confirmed the above, they are in agreement with the approach of discharging to the sewer and the information provided has justified their decision to bypass solutions on the drainage hierarchy.

- 7.9. **Yorkshire Water** – Recommend a series of conditions on drainage in order to protect the local aquatic environment and Yorkshire Water infrastructure as well as requirements for the scheme that will be required to be submitted to discharge these conditions to take account of the relationship to existing infrastructure, discharge rates and foul drainage method, as well as setting out what measures and in investigation the developer will be expected to undertake to seek to discharge the suggested conditions.
- 7.10. **Selby Area Internal Drainage Board** – Confirmed not in their area.
- 7.11. **Natural England** - Advised that they have no objection to the scheme and that it is their view that it is unlikely to have significantly different impacts on the natural environment or on statutorily protected nature conservation sites or landscapes.

- 7.12. **NYC Ecology** - Initial responses noted that the PEA needed to set out clear commitments so that these can be secured and raised concern at the impact of the development on the Sherburn Willows SSSI as a result of increased recreational pressure. Also noted that there was the potential for the development to impact unless a “low impact lighting strategy” was secured, which should be part of the PEA. They also noted that the applicants need to demonstrate how they will deliver net gains on biodiversity net gains in accordance with the NPPF.

In response to an updated BNG document suite provided in January 2024, the Ecology Officer confirmed that the Biodiversity Metric (version 19/12/2023) demonstrates a net loss of 56.97% for area-based habitats. If it is intended to make good the deficit off-site, further details are required as per our previous response. There is an uplift of 20% for hedgerow units, which is welcome and compliant with policy.

In February 2024 further details were received from the Applicants to offset the deficit, which made the following offer:

- Dedicated onsite information board about the SSSI. The content to be created in partnership with the YWT. This will allow residents to become aware of the SSSI and in addition the damaging effects of some activities. This measure should assist in protecting the local habitats.
- £1500 financial contribution for YWT to use towards signage on and around the SSSI which they inform me is a key part of raising awareness and protection of the habitat.
- In the absence of a specific project we propose an amount of £25,000 to be allocated for use by the council for either ecology/NBG projects and would suggest that it can be used if YWT present a scheme that qualifies within a set period (i.e. 5 years) or alternatively for use by YWT across their business which could be used for attending events and further raising awareness of habitats across North Yorkshire.

The Ecology Officer confirmed that the offer seemed reasonable, however the money should be earmarked for conservation of magnesian limestone grassland, which is the key habitat at Sherburn Willows. It could then be allocated to projects on the reserve itself or on other sites supporting this habitat – there are several SINC's, for example, which are deteriorating from lack of management and becoming overgrown with scrub. As such noted that they would wish to see the third bullet point amended to read:

- In the absence of a specific project we propose an amount of £25,000 to be allocated for use by the council for the conservation of magnesian limestone grassland in North Yorkshire, either by the YWT or other bodies over a 5 year period

Noting that this would tie the funding more specifically to the habitat characteristic of nearby Sherburn Willows SSSI and other sites in the vicinity of Sherburn-in-Elmet. The developer confirmed agreement to such an approach to Officers subsequent to receipt of these comments.

- 7.13. **Yorkshire Wildlife Trust** –The Trust initially raised concerns in terms of the schemes impact on the Sherburn Willows SSSI as a result of increased population use of the area. Requested that further information should be provided on the impacts and potential mitigation options. Further to the submission of the PEA in September 2023, they made further comments noting that the PEA did includes some mitigation including the provision of more on site open space and a dog walking trail within the application site. However, concern remained that the development “there will be an increase in recreational pressure on Sherburn Willows reserve (as noted previously there is direct public access), particular for those seeking a longer dog walk. The open playing field (Eversley Park Playground) mentioned within the PEA, whilst closer (215m north-east of the site) is unlikely to be an appropriate place for dog walking” and noting that they support the view from North Yorkshire Ecology who indicate that the generic recommendations included within the PEA need to be firmed up, so the submission gives a clear commitment of exactly what the project will deliver. In addition, they are noted that there was also no evidence of any Biodiversity Net Gain calculations for the project and restated their offer to speak with the applicants.

Comments on the information provided by the Applicants on the 10th January 2024 were outstanding at the time of the collation of the Officers Report – Committee will be updated should comments be received in advance of the meeting.

- 7.14. **North Yorkshire Bat Group** – No response received to consultations on the application.
- 7.15. **Environmental Health** – Recommend a condition relating to a noise survey to ensure that the proposed development is not impacted by close by industrial / comments premises including the High School. A condition is also suggested requiring a Construction Environmental Management Plan and hours controls via condition on demolition, preparation or building operations limiting activities to 08:00 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays. A further condition is also suggested requiring agreement of a schedule of works for any piling works as a suggestion for requiring electric charging points as part of the scheme.

- 7.16. **Contaminated Land Consultant** – Advised that the report shows that the site has previously been used as allotment gardens, and subsequent to that was occupied by "Garden Land Nurseries", with glass houses/sheds/outbuildings having been located on the site. The site is now derelict land occupied by former structures, soil mounds and fly-tipped waste. There are several infilled former quarries situated near the site which present a potential source of hazardous ground gas. These past activities could have given rise to land contamination and the contaminants of concerns include Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Zinc, Total Organic Carbon, (TOC), pH, asbestos, polycyclic aromatic hydrocarbons and petroleum hydrocarbons.

Notes that the report recommends that a Phase 2 intrusive ground investigation and quantitative risk assessment is carried out to determine the actual risk to future site users.

As such the Contaminated Land Consultant has advised that "The Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination and recommends that the following planning conditions are attached to any planning approval:

Condition 1: Investigation of Land Contamination prior to development (excluding demolition),

Condition 2: Submission of a Remediation Strategy

Condition 3: Verification of Remediation Works

Condition 4: Reporting of Unexpected Contamination

- 7.17. **Heritage Officer** (Archaeology) – Initial comments advised that the development site is of archaeological interest, largely due to a number of high-status Roman finds being made in the area. In 1996 a Roman sarcophagus was found during building works at Garden Close, a short distance away. Following this a second sarcophagus was recovered with an inhumation buried in plaster or gypsum. This type of burial is of a high status and suggests that similar remains will be present within the vicinity. On this basis the Officer recommended that trial trenching takes place to properly identify the significance of any archaeological deposits to allow a reasonable planning decision to be made. The trial trenching should particularly target the anomalies shown on the geophysical survey in accordance with Section 16 of the NPPF.

Following discussions with the Agent trial trenching was undertaken, the results of which were considered by the Heritage Officer, who confirmed that "Although the trial trenching identified a number of archaeological features these were all either relatively modern or agricultural in nature and of low potential. It is unlikely that further archaeological work at the site would advance our understanding of these deposits.". On this basis he noted no objection to the application.

- 7.18. **Designing Out Crime Officer (North Yorkshire Police)** – Initial comments confirmed the crime records for the area and made a series of comments on the scheme layout. Confirmed that the “the overall design & layout of the proposed development is appropriate as it contains many Designing Out Crime principles, which reduces the opportunity for crime & disorder.” However, specific comments were noted on:
- a) Rear garden adjacent to public open space
 - b) Lack of appropriate demarcation to dwelling frontages to create defensible space
 - c) Climbing aids created No external access to rear gardens of most mid-terraced properties
 - d) All external doors require security lighting

In reviewing later layout approaches and providing comments in July 2023, then the Officer noted that his concerns had been addressed, supported the approach to the fencing of the open space, that there are some plots where boundaries need to be reinforced through alternative fencing types or planting, and there is a need to ensure any rear access paths to units are gated and lockable.

Comments of 31st October 2023 in terms of the revised layout raised the following points:-

- Climbing Aids that facilitate access to rear garden still evident on Plots 18, 22, 23, 24, 37, 43, 55, 58 and 62.
- Use of 1800mm fences to Plots 56 & 59 (now Plots 55 and 58) have improved on the revised layout but they have created climbing aids for these plots
- Approach on the western boundary treatments have been resolved on the revised scheme.

The Officer has provided an annotated plan showing areas of concern in terms of the creation of climbing aids as a result of the boundary treatment approaches.

- 7.19. **Minerals and Waste** –Confirmed that there are no active quarry sites or waste facilities within 500 metres of the application site and no sites have been proposed for allocation for minerals or waste activities in the Minerals or Waste Joint Plan within that 500m zone. Also noted that the is s within a Minerals and Waste Safeguarding Area for sand and gravel however, does not fall within the exemption criteria stated in paragraph 8.55 of the MWJP (2022). Therefore, the relevant policy to consider in this instance is: Policy S02 Developments proposed within Safeguarded Surface Mineral Resource areas, the application should include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

Comments were received on the 27th November 2023 to the submitted Minerals Assessment which confirmed that they agree that it would not be economically viable to extract the small amount of mineral present at the site, so the requirements of Policy S02 have been met.

- 7.20. **Waste and Recycling Officer** – A series of comments have been received on the application relating to the access for refuse vehicles within the site and seeking to ensure minimal reversing as well as in relation to collection points to be provided for private drives Final comments from the 20th February 2024 on Bin Collection Plan Ref 571-05-BBA-01-00-DR-A-0240-P11 confirmed no objections.
- 7.21. **North Yorkshire Fire & Rescue Service** – Advised that at this stage have no objection/observation to the proposed development.
- 7.22. **North Yorkshire Education** – Confirm that for 66 dwellings, there is a requirement for a financial contribution towards education provision of £228,501.00 for Primary and £189,434.18 for Secondary, so totalling £417,935.18.
- 7.23. **NHS Humber and North Yorkshire Health and Primary Care Trust** – Note that the scheme does not propose any specific mitigation for the healthcare impact arising from the proposed development and that they consider that the scheme would have an impact and that they would prefer the scheme not to go ahead without consideration of the impact on primary care services. They advise that there are two surgeries (Sherburn in Elmet Group Practice and South Milford Surgery) within approximately 2 miles of the application site. They advise that the existing Practices do not have capacity to accommodate additional growth from the proposed development which from 66 dwellings would generate approximately 158 residents based on 2.4 people per dwelling. In this context they seek a contribution of £77,601 to provide additional floorspace of 13.54m² so as to mitigate the impacts of the development.

Local Representations

- 7.24. The application was advertised via site notices with notices also been erected when the application was first received and on the 31st October 2023 when amended plans were received and the description of development decreased the unit numbers to 66 units.
- 7.25. Representations have been received from 76 individuals of which all objections. A summary of the comments is provided below, however, please see website for full comments.

Principle of Development

- The site is outside the current Defined Development Limits contrary to Policy SP2A(c) of the Core Strategy and the settlement edge is considered to be of importance to protect from development.
- Sherburn in Elmet has grown exponentially, population has doubled changing its character to that of a dormitory town with vast housing estates and insufficient infrastructure to support its needs. This development would add the demands of a further 200 residents to already overstretched resources.
- The growth of housing in Sherburn In Elmet far exceeds any other neighbouring community and their contribution to Selby District's housing obligation.
- Due to constraints in Selby and Tadcaster then all development seems to come to Sherburn which is a rural area that cannot handle the proposed numbers of houses being built.
- None of the houses built in the settlement are for first time buyers, 1 or 2 bed low cost units.
- This proposed site is safeguarded land, only to be used for essential development. Sherburn has multiple sites in development all including a percentage of affordable homes. This superfluous development is in no way essential to the already growing village/town.
- An appeal decision refused 27 dwellings on the site APP/N2739/W/20/3249599 ref 2017/0621/OUTM) – so how can 60 plus be considered now.
- There are other pieces of land in the North Yorkshire countryside or area that would accommodate the houses and there should be better/fairer distribution of new housing across the Selby region including in Sherburn-In-Elmet.
- There is no evidence of the need, and Sherburn has provided social housing.
- There were zero comments in support of the earlier application, suggesting no one needs this social housing.
- The Council's 5-year housing land supply position has been confirmed by the rejections of similar development applications on this same land, the most recent appeal decision being February 2021 (2017/0621/OUTM). These applications were rejected on the basis that Sherburn has already exceeded its target for the current plan period in accordance with its 5YHLS. It would stand that it remains inappropriate to release this land for development at this time.
- The building on this site would be piecemeal rather than the phased or controlled approach required by policy SL1.
- 2-3 bedroom housing requirement has already been met by other developments in Sherburn, the proposed mix is at odds with local needs and does not include bungalows.

- SHER-H is the preferred site, which is capable of 300 houses, SHER-R Land to the west of Garden Lane was rejected along with SHER-Q and SHER-BB.
- Controls should be in place to ensure remains as 100% affordable housing and to ensure that the developer is not using a 'back door' to get permission for private housing.

Housing Mix

- Affordable housing is better allocated alongside open market housing and to the same standard / styles. Permitting pockets of affordable housing on the periphery of the village, built to a different style of surrounding housing would not be a sensible planning decision.
- Should include provision of bungalows as part of the scheme

Highways

Evidence

- The Transport Assessment is entirely misleading and does not include traffic counts at the busiest periods of school and work arrival and departure times.

Capacity and Road Layout

- Garden Lane is not suitable for the amount of existing traffic using it at present as narrow and always congested with parked cars (due to the number of terrace houses without off street parking) and totally unsuitable for any increase in traffic. Parked cars lead to issues at main junction and standing traffic on Church Hill.
- Garden Lane is used as shortcut from B1222 onto Tomlinson Way and over to Low Street and the junction at Church Hill is often single file this development will exacerbate issues.
- The crossroads in Sherburn are already significantly congested particularly at rush hour which encourages people to take cut through routes, this would result in Tomlinson way and surrounding roads becoming cut throughs increasing traffic and reducing safety/increasing noise and air pollution on these roads.
- Even with reduced house numbers the highway network is inadequate and traffic generation figures are unrealistic – will be higher.
- Will impact on the access to the Eversley estate.
- Proposed changes to Garden Lane leave a pinch point at what will become the busiest part of the road.
- No improvements have been offered to the junction onto Garden Lane from Church Hill which is already a problem area in a morning and further development will only make this worse.

- Access should come via Hogg the Builders site with a purpose mini roundabout already in place.

Safety

- Comments received around use of Garden Lane by Mytum vehicles which will cause conflict and road safety issues, with vehicles potentially using the pavement to pass, where they are narrow resulting in safety issues for pedestrians and school pupils.

Scheme Design and Access Approach

- The proposed emergency access adjacent to No 60 Garden Lane has not been discussed with these occupiers.
- Not sufficient parking for the location, with only one parking spot provided for a two bedroom which will impact on roads within the development and the wider area.
- Raise concerns about the proposed widening of Garden Lane as the road is too narrow and so no widening is possible.

Sustainability

- Comments raised about the reliance by residents on cars due to poor public transport and distance from railway station; it fails to meet sustainability criteria in terms of walkable access.

Other related matters on highways

- The proposed road widening which due to the ownerships on both sides would require the footpaths to be narrowed further from their already tight dimensions.
- Garden Lane is a dead end that confuses sat navs
- Sherburn ideally needs a bypass building on the west of the town to join with the one on the east to stop the already high levels of traffic & pollution

Design and Character of the Area

- Additional housing will impact on unspoilt character of the area, be detrimental to the immediate area and the settlement
- Small inadequate housing will only lead to a more transient population.
- The road layout suggests there will be further development in future once this phase is complete.
- The changes for the property layout behind 56-58 Garden Lane does now mean properties are not directly overlooking, however the space between the boundary fence and proposed new house is now just one car width which could be overpowering to local neighbours. Lower height bungalows in that location would address some concerns.
- There are no details of how the boundary fence adjoining 56 on the new entrance road would be confirmed as substantial enough for potential

climbing or anti-social behaviour, or how it would be managed in the event of subsidence since the roadway is lower and likely to be affected by building works.

- the density of homes on the new development is far more condensed than that of the existing homes immediately behind them and therefore disproportionate to the adjoining properties.
- Sherburn Village Design Statement shows significant development over the last few years and it maybe that consideration is given to slow further development down to give the community, environment and economy time to settle.
- The house to the rear of No. 56 Garden Lane is extremely close to the fence which would cause overshadowing – consider neighbouring properties have not been taken into account adequately.
- The Design and Access Statement includes out of date photographs, inaccurate schedules of accommodation, factual errors on listed buildings (reference to ones not in the vicinity of the site), and sections appear to not have been completed and left blank.
- Would be better to have a small development of good houses as per those on Kirkgate that are currently being built.
- The design does not align with the character and aesthetics of the community and the development of the site for large scale housing would undermine the landscapes and historic charm of the settlement.

Ecology

- Scheme will impact the SSSI due to dog walking and the proposed route within the site will do little to deter people using the SSSI to walk dogs.
- Although more open space on later scheme this will not replace the extent of land that is lost that supports diverse wildlife.
- The scheme will destroy wildlife habitat, with additional noise disturbance and pollution impacting the nature reserve and local wildlife.
- Lack of evidence of how this would support biodiversity net gain.

Residential Amenity

- Concerns raised about resulting unacceptable levels of noise, pollution and disturbance from increased traffic on the proposed access road with the road widening leading to a loss of foliage that mitigates noise pollution and gives privacy.
- Concerns raised about loss of privacy and sunlight from terrace properties to rear of 56 and 58 Garden Lane.
- Concerns regarding surface water and especially noise pollution due to location of pumping station.
- Loss of privacy would be compromised due to significant increase in pedestrian footfall from proposed south entrance and potentially from use

by motorbikes and possibly quad bikes resulting in anti-social behaviour and boundary enclosures are not proposed to 'design out crime'.

- Increase in vehicles will add to problem on Kirkgate, which is already way too noisy with the high numbers of motorbikes and cars which use the road are constantly speeding with no police monitoring.
- The construction phase and on and off-site highways works would disrupt the tranquillity of the area as well as being inconvenient and disturbing and impact on mental and physical well-being, especially of children and elderly.

Landscape

- The row of existing established trees and hedgerow behind 56 and 58 Garden Lane are not included into the development. It is interesting that such a line of trees providing a buffer to number 60 (which will also benefit from a new driveway through the changes) has been included in the plans.

Infrastructure Provision

- Concerns about the impact on local services, particularly the primary schools, doctors surgery and dentists to accommodate additional people in addition to the existing pressure.
- Leisure facilities are limited and public transport links are poor.

Other Matters

- Idling traffic caused by the above issues will contribute to air and noise pollution, leading to increased health problems.
- Occupiers of the site will be impacted by scrap yard and the scheme which generate noise
- Visitors to the church will be impacted by additional noise from traffic
- Concerned that the additional cars on Garden Lane which is used by pupils to access the school will be a risk to the health of those pupils with additional pollution
- The narrowness of the road along with parked cars could impact access to Fire Brigade which could endanger life.
- Sherburn in Elmet industrial estate is increasing in size with the addition of very large warehousing buildings. Whilst such developments are to be welcomed, unfortunately the salaries offered by the companies for most staff is insufficient to enable their employees to join the housing ladder. So the likelihood would be that the prospective house purchasers would need to commute to other areas for employment to finance their house purchase.
- No mention of sustainable development measure such as solar roof panels, air source heat pumps or electric car charging.
- The development also takes away the ability to reinvigorate the allotments.

Progression of Application and Advertising

- Comments made in relation to the resubmission of an application which has previously been rejected, inadequate consultation with residents and a lack of official site notices in the vicinity.

Non-Material Matters

- Road surface conditions all over the village are horrendously maintained so they'll only get worse with the extra traffic that village is struggling to cope with now.

8.0 ENVIRONMENT IMPACT ASSESSMENT (EIA)

- 8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 MAIN ISSUES

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

- Principle of Development and Affordable Housing
- Impact on the Character and Form of Locality and the Locally Important Landscape Area
- Highways Impact and Mitigation
- Residential Amenity
- Recreational Open Space
- Flood Risk and Drainage
- Contaminated Land, Noise and Air Quality
- Impact upon nature conservation sites and protected species, and biodiversity net gain
- Archaeology
- Climate change
- Minerals and Waste
- Education, healthcare, waste and recycling
- Other issues arising from Objections and Consultations

10.0 ASSESSMENT

Principle of Development and Affordable Housing

- 10.1. Policy SP1 of the Selby District Core Strategy Local Plan outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.

- 10.2. Policy SP2 of the CS sets out the long-term spatial hierarchy for the distribution of future development within the District, focusing development firstly in the Principal Town of Selby, Local Service Centres, Designated Service Villages and smaller villages.
- 10.3. 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. The application site lies to the west of Sherburn in Elmet, which is a Local Service Centre as defined in Policy SP2A of the Selby District Core Strategy Local Plan. The Core Strategy notes that there are a range of services in the settlement with a range of employment opportunities.
- 10.5. The site lies outside the Development Limits for the settlement as defined in the Selby District Local Plan (2005). This limit runs around the rear of the properties on Garden Lane and Church Hill, and is intact with the exception of a couple of in-fill properties along the road frontage on Garden Lane. The Development Limit on the west side of Sherburn in Elmet has been largely unchanged since the limits were established in the 2005 Local Plan.
- 10.6. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy. Substantial weight to the conflict with the development plan (and the related conflict with the intentions of the Framework) should be given in this case. The proposal should therefore be refused unless material considerations indicate otherwise.
- 10.7. Following the latest iteration of the NPPF (December 2023), for local planning authorities who have passed “regulation 18” stage in the preparation of a new local plan, an adequate supply of land means demonstration of at least 4 years worth of supply (in accordance with paragraphs 77 and 226 of the Framework). The Selby Local Plan is at Regulation 19 stage. The Council's position is that it is able to demonstrate a 4 year housing land supply. However, the fact of a Council being able to demonstrate a housing land supply in line with the NPPF cannot be a reason in itself for refusing a planning application.

Safeguarded Land

- 10.8. The application site is part of an area designated as “Safeguarded Land” within the Selby District Local Plan 2005 at this side of Sherburn in Elmet meaning that it was identified as an area suitable for housing to provide for the long-term housing need within the District. The Local Plan states that land excluded from the Green Belt outside Development Limits, but not allocated for development, will be safeguarded as part of a potential long-term reserve beyond 2006, in accordance with Policy SL1. The release of the “safeguarded land”, if required to meet long-term development needs, would only be made in a controlled and phased manner through future Local Plan or land supply reviews, possibly extending over successive review periods.
- 10.9. This is supported by Paragraph 148 of the NPPF which confirms that safeguarded land is identified between the urban area and the Green Belt in order to meet longer term development needs stretching well beyond the plan period. It makes it clear that safeguarded land is not allocated for development at the present time and planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes its development.
- 10.10. It is important to note that the application site is only 2.14 hectares and does not comprise the whole of the allocated safeguarded site, which is only circa 34% of the 6.3 hectares allocation. As such, the whole of the safeguarded land is not being promoted for development at this time for the 100% affordable housing scheme.
- 10.11. Policy SL1 is a carried forward policy from the SDLP. It states that “within areas of safeguarded land as defined on the proposals map, proposals for development which would prejudice long term growth beyond 2006 will not be permitted. It is intended that the release of safeguarded land, if required, will be carried out in a controlled and phased manner extending over successive reviews of the Local Plan.”
- 10.12. Given the site’s saved designation as safeguarded land, the main issue for consideration is whether the site should be kept free of permanent development at the present time in order to maintain the site’s availability for development in the longer term.
- 10.13. The release of safeguarded land was intended to be undertaken in a controlled and phased manner through future Local Plan reviews. The submitted Planning Support Statement argues that both the Core Strategy and the Selby District Local Plan (2005) are out of date. As such, they argue, in the context of Paragraph 33 of the NPPF, that the SLDP is “is significantly out of date given it was published in 2005 and was formulated long before” so should be afforded

no weight and the SDCS should only be given “due weight” and weight should be attached to the material considerations of the emerging local plan, affordable housing need and the previous appeal decision from 2017.

10.14. It is accepted by the Council that other safeguarded land in the district includes areas of land around Sherburn and Hillam. Some of the land (Hodgsons Gate / Pinfold Garth) has been released for development but it should be noted that this was either on appeal or against the background of the Council not having a 5 year housing land supply at the point of determination. Indeed, the Inspector for the appeal decision on land to the east of the application site at Hodgson’s Gate (APP/N2739/W/16/3144900 dated 06 December 2016) commented that:

“...the appeal site was safeguarded some 11 years ago as a resource for accommodating residential growth beyond 2006. It has been kept free of permanent development all of this time and its release now reflects the changed circumstances in the District with regard to the slow delivery of new residential development to meet a new housing requirement.”

10.15. The Inspector concluded that in the specific circumstances at the time of determination, being a lack of five year housing land supply, “given its status as a parcel of a larger area of safeguarded land, it is not necessary for the appeal site to be kept free of permanent development at the present time in order to maintain its availability for development in the longer term”.

10.16. However, the release of further safeguarded land around Sherburn in Elmet is resisted as the Council can demonstrate a housing land supply in line with the NPPF, and due to the high levels of growth that has already occurred at Sherburn and the need to retain further safeguarded land for the future plan period. Therefore, the justification which existed at Hodgsons Gate in releasing safeguarded land does not exist at Garden Lane Sherburn unless material considerations exist to outweigh this position. Since Policy SL1 of the Local Plan conforms to the NPPF the decision to release safeguarded land for housing development should be resisted, unless material considerations clearly outweigh the conflict.

10.17. The relevant material factors to be taken into consideration in weighing up whether to release this safeguarded land includes the level of development witnessed in Sherburn in Elmet to date and whether it is acceptable to allow for more development, taking into specific account the sustainability of the settlement and whether it is appropriate, given the time period since its designation and the review of the plan, to release this safeguarded land which is only part of the wider safeguarded site (other material considerations are considered in following sections). In this case the other key material

consideration is whether the fact that the scheme is 100% affordable housing provision means development of the site can be supported.

Sustainability

- 10.18. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development in determining applications and that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities as such development that does not accord with an up to date plan will not normally constitute sustainable development. However, Paragraph 12 of the NPPF makes clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. When a planning application conflicts with an up to date plan permission should not normally be granted.
- 10.19. In terms of sustainability, the application site abuts Sherburn in Elmet which is identified as a Local Service Centre in the Core Strategy. The settlement provides a range of services and as a Local Service Centre is considered to be one of the key settlements in the District. Therefore, in terms of access to facilities and a choice of mode of transport, the site although located outside the defined development limits of the settlement, it can be considered as being in a sustainable location within the district.
- 10.20. Given the position with the housing land supply, it is considered that the site should be kept free of permanent development at the present time in order to maintain its availability for development in the longer term, having regard to the requirements of local and national planning policy unless material consideration indicate otherwise.

Previous levels of growth

- 10.21. CS Policy SP5 designates levels of growth to each of the 3 main towns which includes Sherburn in Elmet, the group of Designated Service Villages and the group of Secondary Villages based on their infrastructure capacity and sustainability. A large number of housing sites have been delivered in Sherburn in Elmet since the beginning of the plan period. For example, Sherburn in Elmet has seen 1,121 dwellings built in the settlement since the start of the plan period in April 2011 and has a remaining 190 dwellings with approval, giving a total of 1,311 dwellings. This significantly exceeds the minimum target of 790 dwellings between 2011-2027 which is set out for Sherburn in Elmet by Policy SP5.

Deliverability and Mix

10.22. The application is for a 100% affordable scheme, which the applicants argue is required. The mechanism for the delivery of affordable housing for the town has been through Core Strategy Policy SP9 which seeks to deliver up to 40% of on-site affordable housing on all market housing sites at or above the threshold of 10 dwellings. Since 2011 Sherburn in Elmet has delivered 341 affordable dwellings along with a further 345 dwellings that have approval (totalling 686 dwellings).

10.23. In terms of deliverability, the application seeks full consent with a defined mix and delivery mechanism shown on the submitted plans and there is no reason to question the deliverability of the site. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. An approval on this site would provide additional affordable dwellings to the housing supply which adds significant weight in favour of the proposal.

Affordable Housing Need

10.24. The application proposes a 100% affordable housing scheme and the developer has confirmed that it would be secured via a S106 Agreement for those with a local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first in terms of the letting criteria.

10.25. The units that are proposed to be delivered would be a mix of “Affordable Rent”, “Rent to Buy” and “Shared Ownership”. The tenure split is for these is shown on the submitted plan Tenures Plan as follows:

- 1 bed units 4 Affordable Rent
- 2 bed units 26 Affordable Rent
- 3 bed units 7 Affordable Rent / 19 Rent to Buy and 8 Shared Ownership
- 4 bed units 1 Rent to Buy and 1 Shared Ownership

10.26. The applicants have submitted an Affordable Housing Appraisal (October 2022) as part of the initial application suite and a further supporting justification letter (October 2023), both prepared by Tetlow King Planning, setting out the need for additional affordable housing provision which has also considered the level of affordable housing delivered in Sherburn in Elmet through recent developments, the level of affordable housing secured within the Selby Area and also the case for the development of the application site as a 100% affordable housing scheme.

10.27. The Affordable Housing Appraisal (October 2022) concludes that:

- Given the approach of SP9 in the Core Strategy seeking 40% provision on scheme there is a “considerable need” for affordable housing in Selby and the delivery of this tenure of homes is of importance to the District.
- The latest Strategic Housing Market Assessment (SHMA) 2015 shows a defined need for affordable housing of some 172 units net per annum and of 3956 units over the period 2014-37.
- The Housing and Economic Development Housing Needs Assessment (HEDNA) 2020 supports the Council continuing to secure as much affordable housing as possible as viability allows and there is need in all parts of the District.
- The affordable housing need set out in the HEDNA (2020) is greater than the SHMA (2019) as such it is considered that the affordable housing need has continued to increase in Selby and any contribution to the local supply should be positively received by the Council.
- Having considered delivery rates date there has been significant annual shortfalls against the identified affordable housing need in Selby particularly in the early years of the Core Strategy 2011/12 and 2017/18.
- Although it is noted that the delivery rate has improved in recent years it remains important that this momentum is maintained especially as the Core Strategy period approaches its end in 2027 and the emerging Local Plan is yet to be submitted or examined.
- Affordability indicators show that the affordability of housing in Selby is considerably worse than the regional average for Yorkshire and the Humber, and the affordability ratio has worsened over the Core Strategy period with lower quartile housing prices now standing at over 7 and half times lower quartile earnings, which only serves to push buying or renting in Selby District out of reach of more and more people.
- There is as of 31st March 2022, some 633 households on the register – the highest it has been in 5 years.
- Selby is facing a significant affordability challenge and urgent action is needed to deliver more affordable homes.

10.28. The later submissions in October 2023, were provided as further justification for the scheme to underpin the applicants case on the principle of development of the site and the fact that scheme is 100% affordable housing should be a material consideration in the determination of the application against the relevant policies under S38(6). The applicant’s main arguments can be summarised as follows:

- it is important to draw a distinction between how the Local Plan meets the need for overall housing, and for affordable housing. The overarching housing target for Sherburn-in-Elmet of 790 dwellings between 2011 and 2027 does not relate to the delivery of affordable housing and therefore it cannot be used to benchmark affordable housing delivery in the settlement.

- Policy SP9 does not set a numerical target for the delivery of affordable housing, and although the adopted Core Strategy refers to the Strategic Housing Market Assessment (“SHMA”) 2009, that document is out-of-date. The SHMA 2009 does not reflect the changed definition of affordable housing in Annex 2 of the NPPF (from 2018 onwards) together with the amendments to the Planning Practice Guidance regarding how affordable housing need should be assessed.
- The affordable housing needs identified in the SHMA 2009 or the more recent SHMA 2019, are not expressed as a ‘maximum’ figure or a ceiling
- There is no policy barrier to the delivery of additional affordable homes, where a need can be demonstrated for these.
- There shouldn’t be a focus on utilizing rural exception sites to deliver affordable housing as there are no guarantee such sites will come forward; where they will be located or the number of units they will deliver or whether proposal will be acceptable in other planning terms. It is only conjecture to suggest that Rural Exception Sites will come forward to meet identified need by contrast this application will deliver units through a registered provider with a delivery record.
- The data presented above demonstrates the relative unaffordability of the Selby district area in relation to the Yorkshire and the Humber region. In light of these affordability challenges, it is clear that additional affordable homes will widen the choice and availability of affordable housing for rent and affordable routes to home ownership.
- There is a demand on the North Yorkshire Home Choice housing register that is not been met and the delivery of units in Sherburn In Elmet will assist in meeting this need.

10.29. The submissions made by the applicants on the need for affordable housing have been considered by Officers in liaison with the Rural Housing Enabling Officer. The mix of units is supported and there are no concerns in terms of the size of the units to be provided by the scheme as the units are considered to accord to the national space standards as noted on the submitted Tenure Plan. The applicants have also confirmed that they will accept a local connection clause as noted within the Rural Housing Enabling Officer based on local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first as a local letting Criteria.

Conclusion on the Principle of the Development and Affordable Housing

10.30. The proposal would be the release a large part of a safeguarded site of Greenfield site outside of development limits. It would therefore conflict with the fundamental aims of Policies SP1 and SP2 of the Core Strategy, which should be afforded substantial weight.

- 10.31. The site is safeguarded land which has been set aside from the Green Belt and has been considered as suitable for future development beyond the 2005 plan period. Although the Emerging Local Plan has been subject of consultations, it has not been submitted for examination and noted above has limited weight in terms of decision making until it has progressed further and been subject of examination and progressed.
- 10.32. The submissions made by the Applicants in terms of the need for affordable housing in the area have to be considered in the context of the evidence base within the SHMA and HEDNA as well as the sites SL1 Safeguarded Land status and the Councils' housing land supply position. As noted above the sites SL1 status should, in line with the NPPF, only be reconsidered through a review of the Development Plan via a Local Plan process. All of the SL1 sites which have been developed since the adoption of the Local Plan in 2005 have been granted consent at a time when the Council did not have a 5 Year Housing Land Supply and as such, at this time, the tilted balance under the NPPF was applied and the principle of development supported. Although this is not now the case, as the Council can demonstrate a four-year housing land supply in accordance with the NPPF, the fact that the scheme is for a 100% affordable housing scheme is a material consideration which should be given significant weight.
- 10.33. It is considered that the release of this site would not lead to an unacceptably high level of growth in the settlement and the proposed mix of provision does significantly weigh in favour of the release of the site at this time.
- 10.34. The site is in a sustainable location and there is nothing to suggest that the local infrastructure cannot accommodate the development at this scale subject to mitigation being in place for any impacts arising from the development. As such, in assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would provide the social, economic and benefits which weigh in favour of the scheme.
- 10.35. As such, given that the scheme will provided 100% affordable housing and that it would not lead to an unacceptably high level of growth in a sustainable settlement it is considered that on balance it is an appropriate time to allow the release of this land for development for this mix of development. Affordable Housing Officers have raised no objection to the scheme and the mix of development proposed is considered to amount to a significant material consideration that overrides the conflict with the spatial strategy. On balance, the scheme is considered acceptable in principle given that the material considerations outweigh the conflict with Policies SP2 of the Core Strategy and SL1 of the SDLP.

Section 149 of The Equality Act 2010

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

10.37. The proposed development would not result in a negative effect on any persons of or persons with The Equality Act 2010 protected characteristics.

Impact on the Character and Form of Locality and the adjacent Locally Important Landscape Area

10.38. Policy ENV1 requires account is taken of the effect upon the character of the area and the potential loss, or adverse effect upon, features important to the character of the area. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Policy SP19 requires residential development to “Incorporate new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate”.

10.39. NPPF paragraph 135 states “Planning policies and decisions should ensure that developments:... (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)”. Paragraph 153 of the NPPF states ‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Harms include any other harm relevant for planning purposes, such as harm to landscape character, adverse visual impact, noise disturbance or adverse traffic impact. Below is an assessment of the visual impact and landscape character, as residential and traffic impacts are assessed later within the report.

10.40. The application site is adjacent to but not within the Locally Important Landscape Area, as covered by Policy ENV15 of the Local Plan.

- 10.41. The boundary to the Green Belt runs along the eastern boundary of the site and none of the site is within the Green Belt area. The views of the site from the Green Belt are limited given the change in ground levels between the application site and the agricultural land to the east that is adjoins the site and is in Green Belt. Even with the proposed changes to ground levels the impact of the development when viewed from the Green Belt will be limited and not impact on the openness of the Green Belt.
- 10.42. In terms of the impact of the scheme on the character and form of the locality, then the site is visible from Garden Lane, but it is hidden from the footpath running east -west to the south of the school with the landform concealing views from the footpath to the west of the site.
- 10.43. The views from within the site are largely of the back of properties along Church Hill and Garden Lane and there are limited views of All Saints Church tower.
- 10.44. Development of the site will change the character of the area through the introduction of built form but in landscape and visual terms the development of the site is acceptable and there are no objections to the principle of the development of the site from Landscape Officers subject to conditions securing the agreement of and implementation of a full landscaping scheme for the site based on the submitted Landscape Strategy Plans. In this context although development of the site will change the character of the site, there would not be any impact on the adjacent Green Belt land in terms of openness and the impact on the adjacent LILA is not considered significant due to limited views of the site.
- 10.45. As such, it is considered that the proposal subject to condition the scheme is acceptable in terms of landscaping in accordance with Policies ENV1 of the Local Plan, SP18 of the Core Strategy and the advice contained within the NPPF.

Highways Impacts and Mitigation

- 10.46. 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.
- 10.47. 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.

- 10.48. 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.
- 10.49. 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”.
- 10.50. Local Plan Policy T2 states “Development proposals which would result in the creation of a new access or the intensification of the use of an existing access will be permitted provided: 1) There would be no detriment to highway safety; and 2) The access can be created in a location and to a standard acceptable to the highway authority. Proposals which would result in the creation of a new access onto a primary road or district distributor road will not be permitted unless there is no feasible access onto a secondary road and the highway authority is satisfied that the proposal would not create conditions prejudicial to highway safety.”
- 10.51. 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).
- 10.52. NPPF paragraph 108 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. NPPF paragraph 109 recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

- 10.53. Paragraph 112 permits maximum parking standards in certain limited circumstances. The aforementioned NYCC standards are minimum standards.
- 10.54. Paragraph 114 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.”
- 10.55. Paragraph 115 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.”
- 10.56. Paragraph 116 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.”
- 10.57. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.
- 10.58. NYC Highways initially raised concerns about the impact of the scheme on Garden Lane without mitigation and improvements to footpaths in the vicinity of the site. No concerns were noted in terms of the sustainability of the site or the findings of the submitted Transport Assessment.
- 10.59. The applicants have subsequently worked with Highways Officers to agree a scheme of improvements along Garden Lane and footpath improvements, and these are all shown on the submitted plans and can be secured via S278 Agreements and / or conditions on any consent.

10.60. NYC Highways have noted a series of recommended conditions pertaining to highways relating to:

- Provision of detailed plans for the roads and footways by way of full engineering drawings of these as well as details of any structures which affect or form part of the highway network and a programme for delivery (Std Condition MHC-01)
- Construction of Adoptable Roads and Footways (Std Condition MHC-02)
- Visibility Splays for main access onto Garden Lane (Std Condition MHC-06)
- Travel Plan (Std Condition MHC-13)
- Travel Plan Delivery (Std Condition MNC-14)
- Construction Management Plan (Std Condition MHC-15A)

These alongside the securing of the offsite works under S278 of the Highways Act and a condition to secure implementation prior to the occupation of the site mean that the scheme is acceptable in highways terms both in terms of the internal layout, the access approach onto Garden Lane, sustainable travel mitigation via the Travel Plan and the approach to the off-site works.

10.61. As such, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

Residential Amenity

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

10.63. The proposed development lies off Garden Lane to the rear of a series of existing properties that face onto the road. The access into the site goes between an area of land that is currently vacant (but subject of Application ZG2023/1133/FUL for development of 3 dwellings) and 56 Garden Lane. There is also an emergency access / pedestrian / cycle access to the immediate south of No. 60 Garden Lane. Vehicular access to No. 60 Garden Lane will be retained as they currently have access and the driveway to No. 60 is off this and bollards are to be added beyond the driveway to No. 60 to prevent vehicular egress from the proposed development site on a day to day basis and ensuring this is only used for emergency purposes and for pedestrians and cyclists.

- 10.64. The access arrangement for the site will mean that access to the new development will be adjacent to an existing dwelling to the south of the access and the proposed development to the north (should this be consented). Given the design of No. 56 Garden Lane (side windows only facing the access) this relationship is considered to be acceptable and although there will be increased traffic movements past No 56 Garden Lane this is not considered to be so detrimental so as to warrant the access unacceptable on amenity grounds. There will also be no impacts on the dwellings opposite the access given the fencing to the rear of the property and the change in levels.
- 10.65. The internal layout shows a range of relationships between the existing dwellings on Garden Lane and proposed new dwellings. All of the proposed units are two story and there are changes in the ground levels between the units on the frontage and the proposed dwellings. The relationships between the proposed dwellings and those on the Garden Lane frontage meet the appropriate separation distances and do not result in unacceptable relationships in terms of overlooking or overshadowing and boundary treatments have been identified that secure boundaries and protect amenity. Removal of permitted development rights for any additional windows to the side elevations of Plot 61 and 66 will also assist in ensuring there is no additional overlooking as a result of additional windows being added at a later date without planning permission being sought. The scale and massing of the new dwellings is also considered to be acceptable in terms of the relationship to the existing dwellings.
- 10.66. The internal layout of the scheme results in a form of development that ensures that separation distances are achieved, and private amenity space is provided for the occupants, without unacceptable overlooking or oppression. A large proportion of the dwellings also overlook the open space within the scheme, and all have clear defined boundaries and private amenity space. Comments made by the Police Architectural Liaison Officer on some of the boundary treatments are noted by Officers, but it is still considered that the approach shown on the submitted plans are appropriate and ensure that defined amenity space is secured.
- 10.67. Therefore, the proposal would not harm residential amenity and would accord with Policies ENV1 of Selby District Local Plan and Policies SP13 of Selby Core Strategy. Further, the proposal would not contravene the rights guaranteed by the Human Rights Act 1988, in terms of Article 8 Right to respect for private and family life.

Recreational Open Space

- 10.68. Policy RT2 requires the proposal to provide recreational open space at a rate of 60sqm per dwelling on the following basis “provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision. Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.” The NPFA is now known as Fields in Trust.
- 10.69. The Developer Contributions Supplementary Planning Document 2007 provides further guidance on the provision of open space.
- 10.70. The NPPF at paragraphs 96-97 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 97 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.
- 10.71. Policy RT2 is considered consistent with the NPPF and is given significant weight.
- 10.72. The proposed layout initially did not include sufficient open space for the quantum of proposed development to meet the requirements of the policy. The applicants sought initially to argue that the site should not be required to provide at the required level given its location and existing provision in the area, thus providing a limited amount of space on site and offering a commuted sum.
- 10.73. Officers maintained that provision should be on site and easily accessible to the occupants on the site and that provision should meet the standards set out in policy. This resulted in revisions to the scheme, a reduction in number of units being provided and the provision of the on-site open space areas in three defined areas, a dog walking trail, play equipment by way of a Local Area of Play. The scheme provides 4,149 square metres of open space, so 62.9 square metres per dwelling., thus meeting the requirement to provide 60 square metres per dwelling. Although, the Layout shows these areas details of the play equipment and confirmation of the approach to the maintenance of the areas would need to be subject of submissions at a later stage which can be managed through a S106 Agreement should consent be supported by Committee.
- 10.74. The provision of the dog walking trail as part of the northern area of POS on the Layout Plan is in response to concerns raised by Yorkshire Wildlife Trust to the impact of an increase in population in close proximity to the SSSI at Sherburn

Willows, where they were concerned that pressure would be placed on the SSSI by dog walkers. Although the onsite provision is small scale and offers only a short route it does provide a more formalised provision which may assist to some extent in reducing pressure on the SSSI. The view of YWT has been sought but a response was not in place at the time of the completion of the Officers Report for the agenda, as such Members will be updated at the meeting should any response be received.

- 10.75. The provision of onsite open space was considered by Officers the most appropriate mechanism for meeting the requirements of RT2 given the site location in relation to other provision in the area. The scale of provision is considered acceptable and to accord with the above noted policies. As noted, should the application be supported a S106 mechanism will be required to agree details of the design of the Local Area of Play as well as ensuring that the wider open space is provided, and a maintenance regime secured.

Flood Risk and Drainage

- 10.76. 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 165 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 168 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.” NPPF paragraph 169 requires “major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.”
- 10.77. The application site lies within Flood Zone 1 as noted in the Environment Agency’s flood mapping with a low risk of flooding. There is no requirement for a sequential or exception test to be undertaken as a result and the proposal is considered to not contribute to flooding elsewhere.
- 10.78. The application has been supported by a drainage information and the layout shows use of flood attenuation. The SUDs/LLFA Officer and Yorkshire Water

have considered all of the submitted information and Yorkshire Water have suggested a series of conditions to the Authority to secure the drainage scheme. These conditions have also been considered by the LLFA/SUDs Officer and they have confirmed that the Yorkshire Water conditions are appropriate and given that the developer has confirmed the above they are in agreement with the approach of discharging to the sewer and the information provided has justified their decision to bypass solutions on the drainage hierarchy.

- 10.79. As such subject to the use of the conditions suggested by Yorkshire Water it is considered that it has been demonstrated that an appropriate drainage scheme can be secured by condition. On this basis the scheme is considered acceptable in terms of drainage and flood risk and the noted policies in the development plan and the NPPF.

Contaminated land, noise and air quality

- 10.80. 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.
- 10.81. Core Strategy Policy SP18 seeks to protect the high quality of the natural and man-made environment by ensuring that new development protects soil, air and water quality from all types of pollution. This is reflected in Policy SP19 (k), which seeks to prevent development from contributing to or being put an unacceptable risk from unacceptable levels of soil or water pollution or land instability.
- 10.82. NPPF paragraph 180 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 189 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 192 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.

- 10.83. These development plan policies are consistent with the NPPF and are given significant weight.
- 10.84. In terms of contaminated land considerations then the application includes a Phase 1 Desk Top Study and Coal Mining Risk Assessment Report proposed by ARC Environmental (dated March 2021). The primary objectives of this report are to assess the geological, geotechnical and potential ground contamination conditions on and beneath the surface of this site. The Assessment concludes that there will be a need for a Phase 2 intrusive ground investigation prior to the commencing of any development on the site, with such investigations to include borehole sampling, mechanically excavated trial pits, gas and groundwater monitoring, geotechnical testing and contamination screening.
- 10.85. The Council Consultant has considered the submitted report and have advised that the report shows that the site has previously been used as allotment gardens, and subsequent to that was occupied by "Garden Land Nurseries", with glass houses/sheds/outbuildings having been located on the site. The site is now derelict land occupied by former structures, soil mounds and fly-tipped waste. There are several infilled former quarries situated near the site which present a potential source of hazardous ground gas. These past activities could have given rise to land contamination and the contaminants of concerns include Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Zinc, Total Organic Carbon, (TOC), pH, asbestos, polycyclic aromatic hydrocarbons and petroleum hydrocarbons. They have also noted that the report recommends that a Phase 2 intrusive ground investigation and quantitative risk assessment is carried out to determine the actual risk to future site users.
- 10.86. As such the Contaminated Land Consultant has advised that "The Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination and recommends that the following planning conditions are attached to any planning approval:
- Condition 1: Investigation of Land Contamination prior to development (excluding demolition),
 - Condition 2: Submission of a Remediation Strategy
 - Condition 3: Verification of Remediation Works
 - Condition 4: Reporting of Unexpected Contamination

10.87. In this context and subject to the noted conditions the scheme is considered as acceptable in terms of land contamination and to accord with Policy ENV2 of the Local Plan and the guidance in the NPPF.

10.88. In terms of noise arising from the construction stage and the proposed use then the Council's Environmental Health Officer has considered the scheme location and context and have recommend that a Condition relating to a noise survey to ensure that the proposed development is not impacted by close by industrial / comments premises including the High School is utilised alongside a condition requiring a Construction Environmental Management Plan and hours controls via condition on demolition, preparation or building operations limiting activities to 08:00 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays. A further condition is also suggested requiring agreement of a schedule of works for any piling works as a suggestion for requiring electric charging points as part of the scheme.

10.89. In this context and subject to the noted conditions the scheme is considered as acceptable in terms of noise impact and mitigation for future occupiers and the scheme accords with Policy ENV2 of the Local Plan and the guidance in the NPPF subject to these conditions.

10.90. In terms of air quality, then the site is not within an air quality zone so no specific assessment of impact has been provided as part of the application. A condition suggested by Environmental Health Officers relating to the provision of a Construction Environmental Management Plan (CEMP) will ensure that appropriate mitigation measures are secured to control any construction stage impacts in terms of air quality, In addition, there is protection under statutory nuisance should any issues arise that cannot be addressed through the CEMP.

10.91. In this context and subject to the noted conditions the scheme is considered as acceptable in terms of noise impact and mitigation for future occupiers, land contamination and air quality it is considered that the scheme accords with Policy ENV2 of the Local Plan and the guidance in the NPPF subject to these conditions.

10.92. The proposal would not contravene Convention rights contained in the Human Rights Act 1988, in terms of right to health.

Impact upon nature conservation sites and protected species, and biodiversity net gain

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

- 10.94. The foreword to Core Strategy Policy SP2 states the protection and enhancement of biodiversity and natural resources is a basic principle of national planning guidance, which can also influence the location of development. Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by promoting effective stewardship of the District's wildlife by a) safeguarding international, national and locally protected sites for nature conservation, including SINCs, from inappropriate development. b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.
- 10.95. NPPF paragraph 180 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.
- 10.96. NPPF paragraph 186 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.
- 10.97. The development plan policies are consistent with the NPPF and are given significant weight.
- 10.98. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the LPA to determine if the proposal may affect the protected features of a habitats site before deciding whether to permit development. This requires consideration of whether the proposal is likely to have significant effects on that site. This consideration – typically referred to as the 'Habitats Regulations Assessment screening' – should take into account the potential effects both of the proposal itself and in combination with other proposals
- 10.99. The submitted Preliminary Ecological Assessment (PEA) and Preliminary Roost Assessment prepared by Arbtech Consulting Ltd dated July 2023 sets out the ecological characteristics and context of the site and identifies mitigation measures to ensure that the opportunities for biodiversity enhancement and

mitigation are identified. The key recommendations within the report are in summary:

- The inclusion in the Construction and Environment Management Plan to detail how pollution prevention measures will be incorporated to prevent indirect impacts to nearby designations.
- Use of best practice methods to minimise the possibility of pollution and tree damage must be implemented during construction
- A low impact lighting strategy will be adopted for the site during and post-development due to bats.
- A precautionary working method will be implemented during construction to protect hedgehogs.
- To protect nesting and breeding birds works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the trees and vegetation should be undertaken immediately, by qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.
- The installation of 10 bat boxes on mature trees around the site the boundaries or on the new buildings will provide additional roosting habitat for bats.
- The installation of a minimum of 10 bird boxes on mature trees around the site boundaries or on the new buildings will provide additional nesting habitat for birds.

10.100. The submitted PEA also considered the impact on the Sherburn Willows Site of Special Scientific Interest and acknowledges that due to the proximity of the site to Sherburn Willows SSSI and the nature of the proposed development could result in increased recreational pressure.

10.101. The PEA outlines that in terms of biodiversity enhancements then the “improved open space provisions include a LAP playground and dedicated dog walking trail, areas for ball games and relaxation. The green space is well intertwined covering two thirds of the site length and centrally located for improved visual impact. Aswell as being designed to prevent travelling to other recreational areas in the landscape”.

10.102. The application is accompanied by a BNG Baseline Assessment, Matrix and Analysis resulting in a BNG Enhancement Proposal which sets out mixed shrub planting, modified grass within the POS areas, ornamental hedging as well as retained native hedges and retained grass areas. The Matrix shows that there will be a loss of habitat of 56.97% and thus concludes that there is a need for a bespoke compensation and habitat enhancement requirements. In terms hedgerow habitat then the Matrix shows that the scheme will result in a 20.05% increase in the hedgerow habitat. There are no watercourse habitats on the site.

10.103. The PEA Survey and the information provided relating to BNG provided in January 2024 have been considered by the NYC Ecology Officer and he has advised that:

“The Biodiversity Metric (version 19/12/2023) demonstrates a net loss of 56.97% for area-based habitats. If it is intended to make good the deficit off-site, further details are required as per our previous response. There is an uplift of 20% for hedgerow units, which is welcome and compliant with policy. The earlier referenced comments noted that if a deficit is to be addressed via a third party provider or on other land controlled by the applicant, details should be required.”

10.104. The application was submitted prior to the introduction of statutory biodiversity net gain, however as noted above Policy SP2 and Policy SP18 of the SDCS does seek to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

10.105. Upon receipt of these comments from the NYC Ecology Officer in January 2024, the Applicants agent has advised that the “they are looking at a financial contribution” and that they were meeting with Yorkshire Wildlife Trust to discuss possible schemes / funding options, no provision on land owned by the Applicants or the landowner was identified as a possible location for mitigation.

10.106. The Applicants have subsequently confirmed an offer of the following by way of ecological mitigation:

- Dedicated onsite information board about the SSSI. The content to be created in partnership with the YWT. This will allow residents to become aware of the SSSI and in addition the damaging effects of some activities. This measure should assist in protecting the local habitats.
- £1500 financial contribution for YWT to use towards signage on and around the SSSI which they inform me is a key part of raising awareness and protection of the habitat.
- In the absence of a specific project we propose an amount of £25,000 to be allocated for use by the council for either ecology/NBG projects and would suggest that it can be used if YWT present a scheme that qualifies within a set period (i.e. 5 years) or alternatively for use by YWT across their business which could be used for attending events and further raising awareness of habitats across North Yorkshire.

10.107. Ecology Officers consider that this offer would seem reasonable however, the money should be earmarked for conservation of magnesian limestone

grassland, which is the key habitat at Sherburn Willows. It could then be allocated to projects on the reserve itself or on other sites supporting this habitat – there are several SINCs, for example, which are deteriorating from lack of management and becoming overgrown with scrub. As such they suggested a change to the wording of bullet point 3 to read as follows:

- In the absence of a specific project we propose an amount of £25,000 to be allocated for use by the council for the conservation of magnesian limestone grassland in North Yorkshire, either by the YWT or other bodies over a 5 year period

10.108. Noting that this “would tie the funding more specifically to the habitat characteristic of nearby Sherburn Willows SSSI and other sites in the vicinity of Sherburn-in-Elmet.”

10.109. NPPF and Selby District Core Strategy Policy SP18 seeks for the development to produce a net gain in biodiversity, though do not specify a percentage net increase. Given that the existing habitat will be removed to facilitate the development, it is Council’s duty to secure biodiversity improvement, although given that the application was submitted prior to mandatory BNG coming into force this does not need to be the full 10% level. However, the proposal will result in a loss of habitat and although hedgerow habitat gain has been shown to be able to be delivered on site, the loss of habitat has not been adequately mitigated.

10.110. Under the Mandatory BNG Hierarchy then a developer should mitigate on site, or can mitigate through a combined approach of on-site and off site utilising their own land outside the development site, or buy off-site biodiversity units on the market from registered providers. Then there is the option to (if they are not able to utilise these first approaches and can demonstrate this is the case) to purchase statutory biodiversity credits. This must be a last resort. Developers can combine all 3 options but they must follow the steps in order. This order of steps is called the biodiversity gain hierarchy. If developers buy statutory credits, this is because it is not possible to restore habitats on-site or by buying off-site units. Developers can buy statutory credits to add to on-site and off-site biodiversity units, to meet their total BNG. Statutory credits can also fulfil a developer’s entire BNG if both on and off-site options are not possible. Developers wanting to buy statutory credits must prove why they cannot meet BNG using on-site and off-site options. There are published figures for Statutory Credits available online and these are split by habitat types so as to ensure that the credits purchased can be assessed as appropriate to the habitat loss that is being mitigated using the Statutory Credits approach.

- 10.111. In the case of this application then from the Matrix information provided confirms that the habitat that is lost and not replaced includes Heathland & Scrub – Bramble Scrub (Medium Value) and modified grassland of low value.
- 10.112. As noted above an offer has been made by the applicants to seek to redress the impact of the scheme ecologically and this has been considered by Officers, in liaison with NYC Ecology Officers, and Members are advised that given that the biodiversity net gain cannot be achieved on site or off site on land owned by the applicant, in this instance it was considered that provision of net gain in biodiversity can be pursued through a commitment to the elements noted above and the offered financial contribution which can be covered through a planning obligation in a Unilateral Undertaking or S106 agreement.
- 10.113. It is therefore concluded that, subject to a legal agreement the development is considered on balance acceptable in relation to ecology matters. The development therefore does not conflict with the requirements of Policy ENV1 of the Selby District Local Plan and Policy SP18 of the Selby District Core Strategy and with the NPPF.

Archaeology

- 10.114. Core Strategy Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance; and conserving those historic assets which contribute most to the distinct character of the District and realising the potential contribution that they can make towards economic regeneration, tourism, education and quality of life.
- 10.115. Local Plan Policy ENV1 requires consideration of the potential loss, or adverse effect upon, significant buildings, related spaces, trees, wildlife habitats, archaeological or other features important to the character of the area.
- 10.116. 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.

- 10.117. NPPF paragraph 198 requires in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. 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.
- 10.118. These development plan policies are consistent with the NPPF and are given significant weight.
- 10.119. The application site is within an archaeological consultation zone. Initial comments from the Councils Heritage Officer considered trail trenching was required prior to the determination of the application on the basis that the site is of archaeological interest, largely due to a number of high status Roman finds being made in the area. In 1996 a Roman sarcophagus was found during building works at Garden Close, a short distance away. Following this a second sarcophagus was recovered with an inhumation buried in plaster or gypsum. This type of burial is of a high status and suggests that similar remains will be present within the vicinity. As such the trail trenching was requested to identify the significance of any archaeological deposits to allow a reasonable planning decision to be made and to target anomalies shown on the geophysical survey.
- 10.120. A report on Archaeological Evaluation by Trail Trenching prepared by On Site Archaeology was submitted in July 2023. This reported the findings of trenching done in February and March 2023 in the context of the initial comments of the Heritage Officer. The report notes that the trenching "revealed that the majority of the possible archaeological features indicated by the geophysical survey probably relate to relatively recent agricultural/horticultural activity. An undated probable former boundary ditch recorded in the western area of the site may represent evidence of early land division and is possibly associated with potential features previously identified by crop-marks within the vicinity of the site." As such it concluded that "here would not appear to be any archaeological reason to prevent planning permission from being granted for the proposed development. The identified archaeology can be considered as having low, local archaeological significance."

10.121. The report was considered by the Heritage Officer and he confirmed that Although the trial trenching identified a number of archaeological features these were all either relatively modern or agricultural in nature and of low potential. It is unlikely that further archaeological work at the site would advance our understanding of these deposits. As such he confirmed no objection to the proposal and have no further comments to make. It is not necessary to consult us again on this application.

10.122. In this context the scheme the schemes impact on heritage in terms of archaeology is considered to be have been fully assessed and the scheme therefore accords with the noted policy in the development plan.

Climate Change

10.123. The NPPF in paragraph 157 states that “the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

10.124. The Selby District Core Strategy Policy SP15 ‘Sustainable Development and Climate Change’ in section B states that in order to ensure development contributes towards reducing carbon emissions and are resilient to the effects of climate change, schemes should where necessary, improve energy efficiency, minimise energy consumption through layout and design, use sustainable construction techniques incorporate water efficient design and sustainable drainage systems. Policy SP16 requires the proposal to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources.

10.125. The applicants have not provided any further information to set out how the scheme complies with the requirements of Policy SP15 or SP16 in terms of the construction approach for the units. They have however confirmed as part of the application that all units will have an EV Charging unit. The Applicants have confirmed that these will be either wall mounted on the relevant dwelling or on posts where such an approach is practicable such as on the Type F - 1 bed apartment groupings.

10.126. A condition can be utilised to ensure that the scheme meets the requirements of Policy SP15 and SP16 so as to ensure that the proposal to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources.

Minerals and Waste

- 10.127. The site is within a sand and gravel safeguarding area; and a limestone safeguarding area as designated by Policy S01: Safeguarded surface mineral resources of the Minerals and Waste Joint Plan which states “The following surface minerals resources and associated buffer zones identified on the Policies Map will be safeguarded from other forms of surface non-mineral development to protect the resource for the future: ii) All sand and gravel, clay and shallow coal resources with an additional 250m buffer”.
- 10.128. Policy S02: Developments proposed within Surface Mineral Resource areas states within the safeguarded minerals resource areas shown on the policies map, permission for development other than minerals extraction will be granted where:
- “i) It would not sterilise the mineral or prejudice future extraction; or
 - ii) The mineral will be extracted prior to the development (where this can be achieved without unacceptable impact on the environment or local communities), or
 - iii) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or
 - iv) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource; or
 - v) The non-mineral development is of a temporary nature that does not inhibit extraction within the timescale that the mineral is likely to be needed; or
 - vi) It constitutes ‘exempt’ development (as defined in the Safeguarding Exemption Criteria list), as set out in paragraph 8.55).
- 10.129. Following comments from the NYC Minerals and Waste Officers, the applicants submitted a Minerals and Waste The submitted Minerals resource Assessment dated 10th November 2023 as prepared by GRM Development Solutions Ltd. This considered the mineral resource and not any rights to such resources or manorial rights. The report considers historic mapping alongside data available from the British Geological Society Maps and in summary concludes that

- Given that the Minerals and Waste Local Plan suggests the requirements for limestone for maintaining historical buildings is very limited and it is not viable to re-open former quarries, it is not considered to be an economically exploitable resource.
- In terms of sand and gravel then the resources within the site are solely in the south western corner and it is unlikely to be economically viable or practical given relationship to existing residents to extract this resource.
- The proposed development will potentially sterilise a small amount of sand and gravel resource (by physically building above it) as the superficial deposits are located in only the south west corner, the proposals will sterilise approximately 0.1 ha and given the small quantity likely to be on the site, compared with the required reserved, it is considered to be of little significance.
- As the proposed development site is not near to existing active or proposed extraction sites, the proposed development proposals will not unduly restrict their operations.
- The need for housing outweighs the benefit provided by not sterilising amounts of sand and gravel and therefore prior extraction is not considered to be of merit.

10.130. The overall conclusion is therefore that “the site does have the potential to sterilise a relatively small quantity of mineral below the site. However, it has been demonstrated that there is sufficient permitted reserves within the existing land bank, such that the development of the site or surrounding area would not unduly effect future reserves”. In addition the submissions conclude that “the existence of already consented dwellings nearby would also mean the site is unfavourable for limestone extraction.”

10.131. NYC Minerals and Waste Officers have considered the submissions made in the Minerals Report and advised that they agree with the findings of the Report and as such they have confirmed that in their view the scheme accords with the Minerals and Waste Joint Plan Policy S02.

Education, healthcare and waste and re-cycling

10.132. 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.

10.133. 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”.

- 10.134. Policy SP9 relates to provision of affordable housing, but the policy explains that the actual amount of affordable housing needs to have regard to abnormal costs, economic viability and other requirements associated with the development.
- 10.135. 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.
- 10.136. The Developer Contributions SPD provides further guidance regarding contributions towards waste and recycling facilities; education facilities; and primary health care facilities amongst others.
- 10.137. 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.
- 10.138. These development plan policies are consistent with the NPPF and are given significant weight.
- 10.139. NYC Education seek a primary education contributions of £228,501.00 to be used for the provision of primary education facilities at Athelstan Community Primary School and £189,434.18 for Sherburn High School so totalling £417,935.18. No contributions are sought for special school provision or for early years provision. These contributions would need to be secured with appropriate triggers for payment via a S106 agreement.
- 10.140. The NHS was consulted on the application, and comments received from the Humber and North Yorkshire Health and Care Partnership notes that the scheme does not propose any specific mitigation for the healthcare impact arising from the proposed development and that they consider that the scheme would have an impact and that they would prefer the scheme not to go ahead without consideration of the impact on primary care services. They advised that there are two surgeries (Sherburn in Elmet Group Practice and South Milford Surgery) within approximately 2 miles of the application site. They

advise that the existing Practices do not have capacity to accommodate additional growth from the proposed development which from 66 dwellings would generate approximately 158 residents based on 2.4 people per dwelling. In this context they seek a contribution of £77,601 to provide additional floorspace of 13.54m² so as to mitigate the impacts of the development.

- 10.141. The Developer Contributions SPD requires a S106 agreement requiring the developer to pay for 4no. wheeled bins per property, 1no. 180 litre refuse bin, 1no. 240 litre green waste bin and 2no. 240 litre recycling bins at a price of £65 per dwelling. The Developer has not contested paying this contribution.
- 10.142. The Applicants have been advised of the responses from both NYC Education and the NHS contribution and have been offered the option of undertaking a full viability assessment to assess the schemes' ability to provide such contributions. However, they declined to submit such an assessment and have argued that they will not be submitting a Viability Assessment on the basis that "whilst they understand that the impact of the new development can have on key service in certain communities", the scheme as a 100% affordable housing scheme will be subject of a local letting clause that will mean that the houses will be allocated to households "with a local connection to Sherburn in Elmet, South Milford, Barkston Ash, Little Fenton and Biggin first as a local letting criteria." Thus, the basis of their argument is that "due to the proposed local lettings criteria, they believe the scheme will be occupied by families already residing in the local area. Consequently, the impact on key local services should be expected to remain at current levels rather than markedly increase." They have also argued that as the site will not be CIL liable it should not be required to pay the S106 contributions.
- 10.143. Officers have considered their submissions, in the context of the noted policies in the Development Plan, and the noted local connections clause for the units. It is the position of Officers that a development of this scale even with a local letting connections in the S106 for the units will increase demand on services as such a connection does not mean that an occupant could not move from a settlement beyond Sherburn in Elmet into one of the dwellings, they would simply need a local connection such as a relative living in the area. As such there will be a potentially significant increase in demand on NHS services and for school spaces as a result of the development. A local letting connection will not prevent such an increase in demand on these services.
- 10.144. In the absence of a Viability Assessment, then Officers consider that these contributions should be paid by the developers, and no case law has been identified to support the approach the Developers stance. Indeed, cases have been found by Officers where such contributions have been secured on 100% affordable housing schemes, such as a case in York (Appeal Ref:

APP/C2741/W/21/3271045 Land at Boroughbridge Road, west of Trenchard Road, York) where contributions were offered by the Developer of the scheme as part of the Appeal process. As such, notwithstanding that the scheme is 100% affordable housing provision, it is considered that these contributions are justified and would need to be secured with appropriate triggers for payment via a S106 Agreement signed by the developer prior to the issuing of any planning consent, and without such an agreement the scheme is contrary to Policies SP9 and SP12 and the approach of the NPPF which supports the securing of developer contributions to mitigate the impact of development on communities.

Other matters including those arising from Consultations

- 10.145. Objectors have raised concerns that Sherburn in Elmet continues to grow due to the constraints of Tadcaster and Selby even though Sherburn is a rural area. Officers would advise that every application for development has to be considered in the context of the Development Plan, there has been significant development in the settlement but all applications have been assessed against the relevant policy at the time.
- 10.146. Concerns have been raised that none of the houses built in the area are for first time buyers. Officers would advise that the scheme is 100% affordable provision and will through the mix of units be that offered by the developer and it has to be assessed as such.
- 10.147. Objectors have stated that “there are better suited sites for development including for affordable housing. Officers would advise that this application has to be assessed on its merits and against the Development Plan. Alternative locations are not able to be considered via an application.
- 10.148. It is noted by objectors that the site is not allocated for development in the emerging local plan. Officers would advise that this is indeed the case, however, the principle of development of the site has been assessed above.
- 10.149. Objectors have noted that there are no comments in support of the application suggesting no one needs social housing. Officers would advise that this does not demonstrate a lack of need for such units in its own right, development will only come forward if there is a demand for it in the first instance and the applicants have demonstrated that there is a demand in the area which Officers consider to be robust.
- 10.150. It is noted by objectors that the 100% provision of affordable housing “does nothing to provide a diverse and integrated community of homeowners”, noting that “a segregated development of this kind is not inclusive”. Officers would

advise that the development of 100% affordable housing sites of this scale is not something that has been progressed previously in Sherburn in Elmet or the vicinity previously. However, schemes of this nature are being progressed by developers and organisations such as the Joesph Rowntree Trust across North Yorkshire and in York and on balance it is not considered that the application can be refused on the basis that it is a large scale 100% affordable housing scheme.

- 10.151. Objectors state that they consider controls should be in place to ensure that the units stay as affordable units. Officers would advise that a legal agreement would be required to control the delivery of the units and their tenure as such should consent be granted this can be controlled and the scheme is only considered acceptable given that it is 100% affordable which is the key material consideration as set out above.
- 10.152. Representations draw attention to the lack of inclusion of bungalows and so the scheme is unsuitable for people with restricted mobility. Officers would advise that earlier versions of the layout did indeed include such provision but these are not on the latest version of the scheme. Although, it would be preferable to secure such accommodation, it is not considered that the scheme can be refused on the basis that no such unit types are included.
- 10.153. Objectors comment that the scheme layout suggests that there will be further development once this phase has been completed. Officers would advise that the layout would potentially facilitate further development out with the current application boundary given the access road layout, but any such application would be assessed on its own merits should one be submitted.
- 10.154. Objectors state that they consider the density to be too high given the site context. Officers would advise that the site is in a mixed density area which includes a mix of plot sizes and house sizes and that the density of the scheme is in part as a result of the housing mix. However, it is considered that the scheme is not unacceptable in density terms given the mix in the area.
- 10.155. Comments have been raised that leisure facilities in the area are limited and transport links are poor. Officers would advise that the site is located within a settlement which is a Local Service Centre and as such it is considered to be a sustainable location with a range of services. It is accepted that there isn't a leisure centre in the settlement but there are a range of sports and recreational opportunities in the town which will be accessible to any future residents.
- 10.156. Objectors comment that the scheme will impact on those using and visiting the church as a result of the increased noise. Officers accept that there may be some construction stage impacts on the wider area which can be mitigated via

a Construction Management Plan however, the impacts on the users of the church would not be significant.

10.157. Objectors raise a view that fire services will not be able to gain access to the site. Officers would advise that the scheme has been considered by Highways Officers in terms of access for such vehicles and consultation have also been undertaken with the Fire Service. Access for such appliances is considered to be possible and no objections are noted by the Fire Service.

10.158. Objectors state that development of the site will prevent the ability to reinvigorate the allotments. Officers would advise that the site has not been recorded as being allotments in the recent assessments to inform the Emerging Local Plan and there is no evidence that there has been any interest raised with the Council to reuse the site for such purposes and clearly the landowners have not only worked with the applicants to make this application, the site has also been promoted via the Emerging Local Plan process for use for residential purposes. As such Officers consider that it is unrealistic to expect such a use for the site to come forward and the application has to be considered on its merits.

10.159. Concerns are raised that the application has not been determined and proposals for the site still keep submitted despite appeal decisions and the extent of objections. Officers would advise that this application is for a different form of development (i.e. 100% affordable units) and therefore the Council should consider the application. The previous applications and appeal decisions have also been considered in assessing this application.

10.160. Objectors raise a view that the extra traffic from this development will only make existing road surface conditions worse which are already struggling to cope. Officers would advise that the condition of the local roads would not so significantly impacted by a development of this scale to warrant refusal and highways officers have considered this in making their assessment of the application and have not requested a dilapidation survey either. As such the impact on the network is not considered significant.

10.161. Objectors raise a view that there has inadequate and poor communication and the application has not been advertised appropriately. Officers would advise that the application has been advertised at its initial submission and again in October 2023 when amended plans were received and the description of development decreased the unit numbers to 66 units.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The proposal would be the release a large part of a safeguarded site of Greenfield site outside of development limits. It would therefore conflict with the fundamental aims of Policies SP1 and SP2 of the Core Strategy which should be afforded substantial weight. However, the site is safeguarded land which has been set aside from the Green Belt and has been considered as suitable for future development beyond the 2005 plan period. The application is for a scheme for 100% affordable housing for which there is demand, in a sustainable location and it is not considered that the scheme would lead to an unacceptably high level of growth in the settlement and the proposed mix of provision does significantly weigh in favour of the release of the site at this time. As such, it is considered an appropriate time to allow the release of this land to development given it is 100% affordable housing despite the growth in Sherburn in Elmet. The mix of development proposed is considered to amount to material considerations that overrides the conflicts with the spatial strategy considered above and as such the scheme is considered acceptable in principle on balance so as to override the conflict with Policies SP2 of the Core Strategy and SL1 of the Selby District Local Plan.
- 11.2. Development of the site will change the character of the area through the introduction of built form but in landscape and visual terms. The scheme can be landscaped and on balance it is considered that there would not be any impact on the adjacent Green Belt land in terms of openness and the impact on the adjacent LILA is not considered significant due to limited views of the site, so as to warrant refusal of the scheme. Therefore, the scheme is (subject to a landscaping condition) acceptable in terms of landscaping in accordance with Policies ENV1 of the Local Plan, SP18 of the Core Strategy and the advice contained within the NPPF.
- 11.3. The scheme includes a series of improvements along Garden Lane and footpath improvements, and these are all shown on the submitted plans and can be secured via S278 Agreements and / or conditions on any consent. The site is considered to be in a sustainable location and the impacts arising from the development have been considered and mitigation can be secured through off site works. The internal layout and the access point serving the development is considered to be acceptable and the provision of a secondary emergency access which also facilitates pedestrian and cycle access beyond the primary access are also considered appropriate. In addition, car parking ratios are considered to be acceptable for the scheme with all dwellings have appropriate car parking provided.
- 11.4. The scheme design has been revised to ensure that recreational open space is provided on site in accordance with Policy RT2 of the Selby District Local Plan and the overall design of the scheme is considered to be acceptable in terms of density, layout and design of the dwellings as well as in terms of the general

approach on landscaping of the site (the details of which can be secured via condition) and the boundaries all also considered acceptable.

- 11.5. The scheme has confirmed provision of electric vehicle charging points for all dwellings and gardens can accommodate cycle storage. In addition, a condition can be utilised to ensure that the scheme meets the requirements of Policy SP15 and SP16 so as to ensure that the proposal to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources.
- 11.6. A full assessment of the ecological impacts of the development has been undertaken and mitigation has been offered as part of the application which can be delivered through a legal agreement.
- 11.7. It has been demonstrated that an appropriate drainage scheme can be secured by condition utilising a range of methods and the scheme is also acceptable in terms of flood risk. No technical issues have been raised in terms of contamination, noise, air quality or archaeology.
- 11.8. Detailed assessments on the impact on minerals resources, as well as archaeology assets have demonstrated that the development of the site will not impact on these reserves / assets and therefore there are no technical constraints on these aspects.
- 11.9. Appropriate bin storage is shown for all dwellings with presentation points where appropriate shown on the submitted plans and refuse vehicle access has been confirmed as practicable. A legal agreement could be used to secure funding for bins for the initial occupation of the dwellings from the developer. As such the scheme is acceptable in terms of this consideration.
- 11.10. There are no other issues arising from the consultations that result in the scheme being unacceptable and all technical matters have been resolved through the consideration of the application and as a result of additional technical submissions and commitments from the developer. However, the harm arising from the lack of mitigation on education and healthcare without full open book viability is contrary to Policy SP12 is significant, and notwithstanding the arguments made by the developer which seek to justify none payment of monies sought for education and healthcare without a full viability assessment and purely on the basis that the scheme is a 100% affordable housing scheme which requires a "local connection" to secure a property it remains the view of Officers that the a development of this scale even with a local letting connections in the S106 for the units will increase demand on services as such a connection does not mean that an occupant could not move from a settlement beyond Sherburn in Elmet into one of the dwellings, they would simply need a local connection

such as a relative living in the area. As such there will be a potentially significant increase in demand on NHS services and for school spaces as a result of the development. A local letting connection will not prevent such an increase in demand on these services. Therefore, in the absence of a Viability Assessment, notwithstanding that the scheme is 100% affordable housing provision, these contributions are justified and would need to be secured with appropriate triggers for payment via a S106 Agreement signed by the developer prior to the issuing of any planning consent, and without such an agreement the scheme is contrary to Policy SP12 and the approach of the NPPF which supports the securing of developer contributions to mitigate the impact of development on communities.

11.11. The harm arising from the proposal is considered to significantly outweigh the benefits. Therefore, full planning permission should be refused.

12.0 RECOMMENDATION

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

1. The applicants have failed to demonstrate through open book viability assessment that the development is not able to make contributions on education and / or healthcare. Therefore, the development fails to mitigate against impacts on services provision for education and healthcare and as such it is contrary to Policy SP12 of the Selby Core Strategy Local Plan and the approach of the NPPF which supports the securing of developer contributions to mitigate the impact of development on communities.

Target Determination Date: Extension of time agreed to 21.02.2024.

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

Appendix A – Proposed Layout Plan ref P23