

**North Yorkshire Council**

**Community Development Services**

**Selby and Ainsty Area Constituency Planning Committee**

**12 JUNE 2024**

**ZG2024/0203/FUL - ERECTION OF A REPLACEMENT DWELLINGHOUSE FOLLOWING DEMOLITION OF EXISTING TWO-STOREY DWELLING AND RENOVATION AND EXTENSION OF THE EXISTING ONE-AND-A-HALF STOREY COTTAGE TO ALLOW FOR ITS USE AS AN ANNEX AND REFURBISHMENT OF THE EXISTING STABLE FOR USE AS A STORE AT WHITE GATES, MAIN STREET, BILBROUGH, YO23 3PH**

**Report of the Assistant Director – Planning – Community Development Services**

**1.0 Purpose of the report**

- 1.1 To determine a planning application for the erection of a replacement dwellinghouse following demolition of existing two-storey dwelling and renovation and extension of the existing one-and-a-half storey cottage to allow for its use as an annex and refurbishment of the existing stable for use as a store on land at White Gates, Main Street, Bilbrough.
- 1.2 This application is brought to Planning Committee as the Head of Development Management considers that it raises significant planning issues such that it is in the public interest for the application to be considered by Committee. The application has generated significant local support with 28 letters being received from residents of the village. The Division Councillor has also expressed support for the application being brought before Committee.

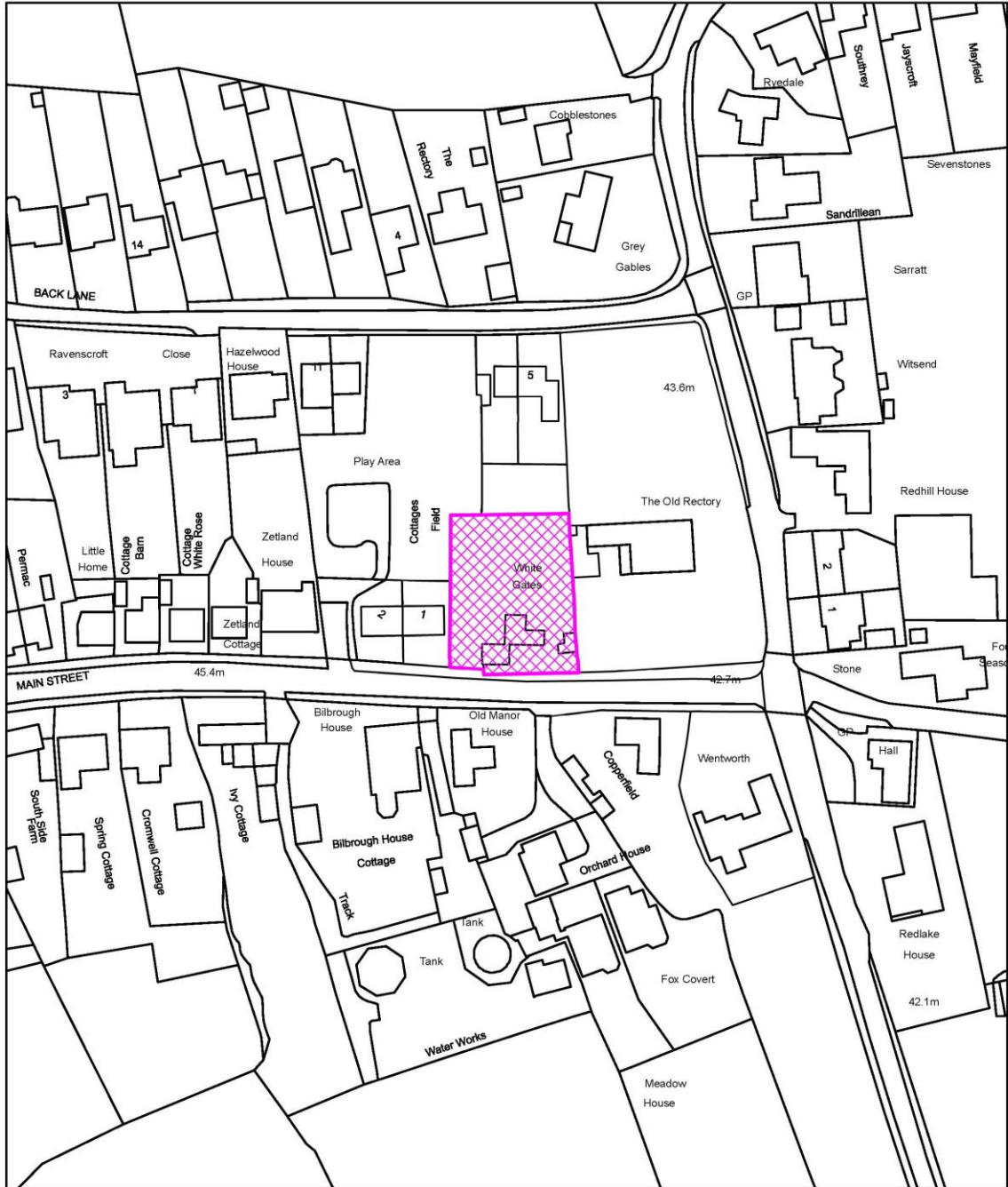
**2.0 SUMMARY**

**RECOMMENDATION: That planning permission be REFUSED for the reasons listed at the end of this report.**

- 2.1 This is a full planning application for the erection of a replacement dwelling following the demolition of the existing dwelling and use of an existing linked small cottage to the front of the site as a residential annexe. A small stable building on site would also be rebuilt to be used as a store room.
- 2.2 The application site is known as White Gates, Main Street, Bilbrough. It is located within the development limits of Bilbrough, which is washed over by Green Belt and therefore, the site is on land designated as Green Belt. The site also lies within Bilbrough Conservation Area.

- 2.3 The application has been submitted following the refusal of application ZG2023/0953/FUL for a similar scheme. The reasons for refusal of the 2023 application are summarised as follows:
- The proposal was inappropriate development in the Green Belt, harmful by definition and no Very Special Circumstances existed to clearly outweigh Green Belt harm and any other harms.
  - The proposal would result in less than substantial harm (as defined in paragraph 208 of the NPPF) to Bilbrough Conservation Area and there were no public benefits to justify this.
  - Insufficient information was submitted to assess the impact on trees and ecology.
  - Insufficient information has been provided to assess the impact on Highway Safety.
- 2.4 The revised scheme makes various design changes including reducing the footprint, increasing the distance from the rear trees, amending the roof scape, amending the driveway and changes to the retained stable. Key issues relate to the principle of the development in the Green Belt, impact on heritage assets, and the scale and design of the new dwelling.
- 2.5 Twenty-eight letters of support and several letters from the applicant have been received by the local authority which raise material planning considerations and will be summarised at section 7.11 this report and later discussed from section 10.54.
- 2.6 It is concluded that the scheme would represent inappropriate development in the Green Belt as it would replace the existing dwelling with one which is materially larger, reducing the openness both spatially and visually due to additional built form and the scale and position of the development within the site. This would conflict with the fundamental aim of the Green Belt which is to keep land open and free from development and no Very Special Circumstances exist to clearly outweigh the harm to the Green Belt and any other harms. The proposal is therefore contrary to national and local planning policy in this regard.
- 2.7 Furthermore, the development would cause 'less than substantial harm' as defined in paragraph 208 of the NPPF to a designated heritage asset (Bilbrough Conservation Area) and the public identified is not sufficient to balance this harm.
- 2.8 For the above reasons, the application is recommended for refusal.

White Gates, Main Street, Bilbrough  
ZG2024/0203/FUL



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### **3.0 Preliminary Matters**

- 3.1 Access to the case file on Public Access can be found here; [ZG2024/0203/FUL | Erection of a replacement dwellinghouse following demolition of existing two-storey dwelling and renovation and extension of the existing one-and-a-half storey cottage to allow for its use as an annex and refurbishment of the existing stable for use as a store | White Gates Main Street Bilbrough YO23 3PH \(selby.gov.uk\)](#)

### **4.0 Site and Surroundings**

- 4.1 The application site consists of land to the north of Main Street, Bilbrough, comprising an existing 20<sup>th</sup> Century two-storey dwelling and an older small cottage within the site. The dwelling is set at right angles to the road so that its side gable end faces Main Street. The site lies within the main part of the Conservation Area for Bilbrough and is bordered by residential dwellings to the north, east, west and south, with the dwelling to the south being the Grade II listed Old Manor House.
- 4.2 The site is bordered by established trees and hedging which is set to be retained to the east, north and west.

### **5.0 Description of Proposal**

- 5.1 The application seeks full planning permission for the erection of a single dwelling following the removal of the existing dwelling on site. The application also proposes existing outbuildings on site, including a small cottage and former stable outbuilding, extended and used as an ancillary annexe and a store room.
- 5.2 Relevant planning history application is listed below:
- ZG2023/0953/FUL- Erection of a replacement dwellinghouse following demolition of existing two-storey dwelling and renovation and extension of the existing one and a half storey cottage to allow for its use as an annex and refurbishment of the existing stable for use as a store. Refused 23 November 2023.

### **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 Council has recently undertaken a further Revised Pre Submission (Regulation 19) consultation which closed on the 19th April 2024, and comments are currently being assessed prior to submission to the Secretary of State for independent examination.

In accordance with paragraph 48 of the NPPF, given the stage of preparation following the consultation process and depending on the extent of unresolved objections to policies and their degree of consistency with the policies in the NPPF, the policies contained within the emerging Local Plan can be given weight as a material consideration in decision making.

- The 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 Consideration

6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2023
- National Planning Practice Guidance
- Bilbrough Village Design Statement

### **7.0 Consultation Responses**

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

7.2 **Parish Council** – No formal response received.

- 7.3 **Conservation Officer** – Objects to the proposal as it has been identified to have a ‘less than substantial harm’ on the Bilbrough Conservation Area which has not been justified with any public benefit as set out under paragraph 208 of the NPPF. The consultation response concludes as follows:

*‘As noted in paragraph 201 of the NPPF, Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal. It is noted that this is a revised scheme and although the roof height has been lowered the massing of the new dwelling is larger than the existing building which is to be demolished. The new building via its juxtaposition and size creates a harmful element to the small existing cottage which is understood to be converted into an annexe. The annexe element is considered acceptable. However, the new dwelling dominates the cottage and therefore results in an incompatible appearance on the street scene which detracts from the conservation area thus leading to less than substantial harm. The heritage statement has quoted case law, however this case law refers is not relevant to this application as it refers to a different set of circumstances entirely.*

*There is identified less than substantial harm to the Bilbrough Conservation Area as it is considered that a taller building set behind a small cottage facing Main Street would change and harm the setting of the conservation area. Therefore, in line with paragraph 208 of the NPPF there needs to be a public benefit to this proposal. As identified in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states: with respect to any buildings or other land within a conservation area... special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area. It is considered that the change of a taller and dominating development effects the character and appearance the conservation area due to its large imposing design. Therefore, the proposal fails to preserve or enhance the character or appearance and setting of Bilbrough Conservation Area.’*

- 7.4 **Yorkshire Water** – No objection, but recommend a condition requiring the site be developed with separate systems for foul and surface water.
- 7.5 **Ainsty Internal Drainage Board** – Note the proposed use of the mains sewer for the disposal of foul sewage and raise no objection to this, providing Yorkshire Water are satisfied with the arrangement. Recommended a condition which requires drainage works for surface and foul water to be agreed in writing prior to the commencement of works.
- 7.6 **Ecology** – The site is deemed to be negligible for bat species. No objection to the scheme subject to the works being carried out outside the bat breeding season and bird nesting season. Also recommend that the works be carried out in accordance with the Ecological Appraisal provided.
- 7.7 **Contaminated Land Consultant** – Comment that the Screening Assessment Form does not identify any significant potential contaminant sources, so no further

investigation or remediation work is required. Recommend a condition requiring the reporting of unexpected contamination found on site.

7.8 **Tree Officer** – Request a condition be added to the permission requiring a detailed Arboricultural Method Statement be submitted to the Local Authority for written approval to include construction and protection measures.

7.9 **Highway Authority** – No objection and recommend conditions relating to the creation of a new vehicle access, parking and turning areas. Also recommend an informative informing the applicant that a separate licence is required from the highway authority.

#### Local Representations

7.10 The development was advertised in the Yorkshire Evening Press and by site notice posted on 19<sup>th</sup> March 2024. As a result, 28 letters of support were received from individuals living in the village of Bilbrough. A summary of comments is provided below, however, please see the website for full comments.

7.11 Support:

- Public benefit will come from the widening of the pavement;
- The scheme should be seen as having Very Special Circumstances in Green Belt;
- Scheme is no worse than the existing house for the Green Belt;
- The new house will allow long-time Bilbrough residents to stay in the village in old age;
- The proposal would enhance the character of the village/conservation area and is supported by heritage statement;
- Similar infilling has occurred in the village;
- More sympathetic in design than existing buildings;
- Application should be assessed under New Local Plan Policies which it is compliant with.

#### **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 Environmental Statement is therefore required.

#### **9.0 Main Issues**

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

- Principle of the Development
- Impact on Openness of the Green Belt
- Impact on Heritage Assets
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Ecology and Trees
- Contaminated Land

- Consideration of whether Very Special Circumstances exist

## **10.0 ASSESSMENT**

### Principle of Development

- 10.1 Policy SP1 of the Core Strategy outlines the positive approach that the Council will take when considering development proposals, reflecting the presumption in favour of sustainable development contained in the NPPF at paragraph 11. This means approving development that accords with an up-to-date local plan.
- 10.2 The application site is located within the defined development limits of Bilbrough, which whilst in a sustainable and accessible location, but is over washed by Green Belt. As such, national guidance contained within Chapter 13 (Protecting Green Belt land) of the NPPF and Policies SP2A(d) and SP3 of the Core Strategy are relevant.
- 10.3 Policy SP2A (d) of the Core Strategy states, "In Green Belt, including villages washed over by the Green Belt, development must conform with Policy SP3 and national Green Belt policies".
- 10.4 Policy SP3B of the Core Strategy states, "In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted".
- 10.5 The decision-making process when considering proposals for development in the Green Belt is in three stages, and is as follows: -
  - a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt;
  - b) If the development is appropriate, the application should be determined on its own merits;
  - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption against it.
- 10.6 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except for in very special circumstances. Paragraph 153 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 10.7 Paragraph 154 of the NPPF sets out that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt and sets out a number of exceptions including [amongst other things] 154 d) "the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces".



- 10.8 Therefore, replacement buildings are acceptable providing they would be in the same use and not materially larger than the building they replace and would not have a detrimental impact on the Green Belt. The proposed dwelling would replace an existing dwelling and is therefore the same use. Whether the replacement building is materially larger is determined by assessing the degree of proportionality assessed by reference to matters such as bulk, height, massing, footprint and prominence.
- 10.9 The development is for the erection of a replacement dwellinghouse following the demolition of existing two-storey dwelling and renovation and extension of the existing one-and-a-half storey linked cottage to allow for its use as an annex and refurbishment of the existing stable for use as a store. The volume of the original buildings including the main dwelling, the linked cottage and stable is approximately 381m<sup>3</sup>, the proposed development increases this to approximately 874.78m<sup>3</sup> which amounts to a volume increase of approximately 229.6%. The existing footprint of the original buildings is approximately 94m<sup>2</sup> and this increases to approximately 151.9m<sup>2</sup> which amounts to a 161.5% increase over and above the footprint of the original dwelling. This level of increase is considered to be materially larger than the current development. Whilst there are no 'defined rules' about what level of size increase is acceptable, planning appeal decisions have accepted size increases of up to 50% (although often less is considered acceptable) whereas, in most cases, size increases beyond this are considered materially larger and have been dismissed. The increased volume of the built form at this site by 229.6% is considered to be significantly beyond the acceptable limits. As such the proposed development does not fall within any of the exceptions set out in paragraph 154 of the NPPF and would clearly be inappropriate development which would, by definition, be harmful to the Green Belt.
- 10.10 A reduction in the size, scale and massing of the dwelling has been submitted under this application from the previously refused ZG2023/0953/FUL, under which the proposal amounted to a 317% increase in volume. Whilst this is noted, the building is still materially larger than those present on site and therefore do not accord with Paragraph 154 of the NPPF.
- 10.11 The proposal should therefore be refused unless the harm by definition and any other harm arising from the impacts of the development are clearly outweighed by other considerations. These must, either collectively or individually amount to the 'Very Special Circumstances' (VSC) necessary to outweigh the harm and justify the development. The final section of this report makes this assessment.

#### Impact on Openness of the Green Belt

- 10.12 The fundamental aim of Green Belts is to prevent urban sprawl by keeping land permanently open. The essential characteristics are their openness (lack of development) and their permanence (enduring in the long term). The openness of the Green Belt has both a visual and a spatial element.
- 10.13 In terms of the spatial element the proposal would increase the size of the existing modest linked cottage and two storey dwelling with a much larger new building and

significant extension. The building would occupy an open area within the plot of land, increasing the built form within the site. Though there is a dwelling on site, this would be significantly larger and would increase the overall scale and volume of the built form on the site occupying more of it spatially. This would have the effect of reducing the openness of the Green Belt spatially.

- 10.14 In terms of the visual element, (the visual element of the Green Belt is not an assessment of visual quality), the extension proposed would be in a visually prominent position on a plot along Main Street. It would, to a degree, visually impair the Green Belt due to the increased built form at the front of and within the site, altering the balance of the dwelling and the green undeveloped space around it. Currently the dwelling is modest in scale and presents a narrow gable to the street frontage maintaining much open space around the built form. The proposed dwelling would face the street and occupy much more of the plot width reducing the open gaps between the existing buildings. This would result in a more consolidated form of development with less space between the dwellings fronting this part of the street scene. The loss of open space around the built form would visually impair the openness of this part the Green Belt.
- 10.15 It is therefore concluded that the development reduces the openness of the Green Belt both spatially and visually and conflicts with the fundamental aim of the Green Belt which is to keep land permanently open.

#### Impact on Heritage Assets

- 10.16 The application site lies within Bilbrough Conservation Area, which is a designated heritage asset. The site also lies approximately 19 metres north of the Grade II listed Old Manor House and therefore affects its setting.
- 10.17 Relevant policies in respect of the effect upon heritage assets include Policies SP18 and SP19 of the Core Strategy and Policy ENV25 of the Selby District Local Plan. Policy SP18 requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledge importance. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout. Policy ENV25 requires development within or affecting a conservation area to preserve or enhance the character and appearance of the conservation area.
- 10.18 When considering proposals for development which affect a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 10.19 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.

- 10.20 Relevant policies within the NPPF which relate to impact on heritage assets are included in Chapter 16 (Conserving and enhancing the historic environment). The NPPF sets out that in determining applications LPAs should identify and assess the particular significance of any heritage asset that may be affected by the proposal, including the setting of a heritage asset (Paragraph 205). The Heritage Assets in this instance are Bilbrough Conservation Area and the Grade II listed Old Manor House to the south of the site.
- 10.21 The Old Manor House is Grade II listed and lies 19 metres south of the dwelling. It is described as being the original home of Thomas Fairfax and was built in 1670. The dwelling is constructed in traditional Magnesian limestone ashlar with a Welsh slate floor. The dwelling has seen additions in the 20<sup>th</sup> Century, but still retains its historic character. The existing site at White Gates directly opposite forms part of the setting of the listed building due to its proximity, though concerns were not raised by the Conservation Officer regarding the proposal having a negative impact on the setting of the listed building. Therefore, though the setting would be altered by the proposal, it could not be said that the impact would be negative.
- 10.22 The Council's Conservation Officer has assessed the submitted plans and noted that the scheme has been reduced from the previously refused ZG2023/0953/FUL (which was partly refused for the impact of the development on Bilbrough Conservation Area), and that there is no objection to the re-use of the existing cottage. However, objection is held to the new dwelling, which the Conservation Officer has concluded would create a dominating feature over the original cottage and *'results in an incompatible appearance on the street scene which detracts from the Conservation Area thus leading to less than substantial harm*. The NPPF at para 208 sets out that 'where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing optimal viable use'.
- 10.23 A heritage statement was submitted with the proposal which sets out the context and history of the site and an assessment of the heritage significance of the site and the wider village, assessing the heritage significance of the mix of dwelling types within the village.
- 10.24 The heritage statement sets out that the agent disagrees specifically with the assessment from the Conservation Officer under the 2023 application that the siting of the new, modern dwelling behind the older cottage would be harmful as the building would be subservient to the neighbouring 'The Old Rectory' and has been reduced by 1.1m in height from the previous submission. The agent has also stated that the widening of the pedestrian footpath to the front of the dwelling would represent a public benefit. The heritage statement concludes that the proposal would enhance the appearance of the village.
- 10.25 This assessment by the agent has been taken into consideration, as has the public benefit of the widening of the footpath. Less than substantial harm has been identified (defined under Paragraph 208 of the NPPF) to the Bilbrough Conservation Area, which

would be caused by the erection of the large new dwelling behind the small cottage. It is acknowledged that the site is capable of accommodating the size and form of the dwelling proposed and the majority of trees around the boundaries can be retained. However, the site currently contains a small dwelling of traditional vernacular form, narrow in depth with gable facing the main street. The existing linked small cottage fronting the street has characterful appearance of a traditional small ancillary outbuilding. The arrangement and juxtaposition of the two building to each other and their variation to the form of other buildings and dwellings in the street, add interest and historic character to this part of the Conservation area. The replacement dwelling would be a much larger imposing modern dwelling with a wide frontage facing the street. This would obliterate the vernacular character and positioning of the current development which contributes to the Bilbrough conservation area. It is also acknowledged that the current dwelling is in poor condition. However, no information has been provided to indicate that it is not capable of renovation and sensitive extension. It is considered that any replacement should respect the scale and form of the current dwelling and its layout within the site so as to preserve or enhance the character and appearance of this part of the conservation area. This development is considered to cause harm to the conservation area and this is not considered to be balanced or outweighed by the small public benefit of the increased pedestrian footpath width.

- 10.26 As such, it is concluded that the proposed development would harm the character of the village and would fail to preserve the setting of the Bilbrough Conservation Area and the identified public benefit to the scheme does not outweigh this harm. It is considered that although there would be a change to the setting of the Listed Building from the development, there would be no harm to the significance of it. The proposal is therefore contrary to the requirements of the NPPF in terms of assessing the potential impacts on heritage designations.
- 10.27 The proposal would result in less than substantial harm to the Bilbrough Conservation Area due to the scale, positioning on the site and the design of the proposed development and this harm would not be outweighed by the public benefit proposed of the widening of the footpath. It is considered that the proposals would have a significant adverse impact that would not preserve or enhance the character and appearance of the Conservation Area, contrary to Policies ENV1, and ENV25 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy, Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

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

- 10.28 Relevant policies in respect to the impact on the character and appearance of the area include Policies ENV1 of the Selby District Local Plan, and Policy SP18, and SP19 of the Core Strategy and the national policy contained within the NPPF.
- 10.29 Policy SP19 requires that "Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including

historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:

- A. Make the best, most efficient use of land without compromising local distinctiveness, character and form;
- B. Positively contribute to an area's identity and heritage in terms of scale, density and layout.

- 10.30 The application comprises a site including a small 'cottage' to the front of the site, which has a larger dwelling set behind it which is currently derelict and is set to be demolished. Within the street scene there is a mix of building materials, but the dwellings are predominantly built using orange or brown brick, with the occasional cottage on main street being rendered white. The area has the feel of a traditional, rural linear village with houses set facing the street and mostly rectangular footprints.
- 10.31 The dwelling itself sits within a large plot and the small, older cottage faces the street scene from behind a low hedge. The new dwelling would face towards the street scene and would have a rectangular form.
- 10.32 The materials to be used for the development are to be mellow red brick and red clay pantiles, with timber and UPVC for the windows and doors. These materials would be the most appropriate for the development.
- 10.33 The scale of the new dwelling would be at odds with the modest cottage style dwellings seen on Main Street and would dwarf the existing cottage on site. Whilst the materials would be in keeping with the surrounding area, the proposal for the large dwelling itself would appear out of place within the street scene and would erode the character of the area.
- 10.34 Furthermore, the extensions to the existing small cottage would make it appear as a separate small dwelling with its own access, rather than an annex which is subservient to the main dwelling. This is at odds with the relationship seen between dwellings and ancillary buildings within the village and would look incongruous.
- 10.35 The proposal would impact on Bilbrough Conservation Area. Given the scale of the development, its positioning on the site and the design of the proposed development, it is considered that the proposals would have a significant adverse impact on the character and appearance of the area, contrary to Policies ENV1, and ENV25 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 130).

#### Impact on Residential Amenity

- 10.36 Policy in respect to impacts on neighbour amenity and securing a good standard of residential amenity are provided by Local Plan Policy ENV1 (1) and (4) and Core Strategy Policy SP19. In addition, paragraph 135(f) of the NPPF encourages the creation of places which are safe, inclusive and accessible, promoting well-being '*with a high standard of amenity.*'

- 10.37 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.
- 10.38 The proposal site has neighbours to the east and west who have been considered in this assessment. the dwellings are set approximately 14 metres apart on either side. In terms of overlooking, the proposal would contain windows which would face west at ground and first floor level. However, it is not considered that unacceptable levels of overlooking would occur as the site is well screened with boundary hedges and trees which are proposed to be retained. In terms of overshadowing or causing a sense of oppression, the dwelling would be well spaced away from neighbouring plots and the site is bordered by established trees and hedging, so it is not felt that a sense of overbearing would occur.
- 10.39 Having taken into account all of the above, it is considered that the proposal would not result in any significant detrimental effects of overshadowing, oppression, or overlooking any neighbouring properties and would therefore be in accordance with Policy ENV1 (1) of the Selby District Local Plan.
- 10.40 In light of the above, it has been demonstrated that the proposal would not contravene Convention Rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

#### Impact on Highway Safety

- 10.41 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aims of these policies accord with paragraph 14 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition, paragraph 115 which advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.
- 10.42 the Highways officer responded to consultation on the application with no objection and recommended two conditions to be added to the permission relating to the construction of a new access to the site and also the parking, turning and manoeuvring areas. An informative was also recommended advising that a separate licence is required from the Highway Authority for the works.
- 10.43 In conclusion and on the basis of the comments from the Highway Officer, and the imposition of the advised conditions, the highway specifics are considered to be acceptable and would therefore accord with Local Plan Policies T1 and T2; Core Strategy Policy SP15 and the advice within the NPPF.

#### Flood Risk and Drainage

- 10.44 The site lies in Flood Zone 1 (low probability) and the proposal involves replacing a replacement building. Therefore, there are no issues raised in terms of suitability of the site for development. In terms of drainage, the submitted application form sets out that surface water and foul sewage would be disposed of via a main sewer. The Ainsty Drainage Board and Yorkshire Water have been consulted on the proposal.
- 10.45 The Drainage Board responded to consultation noting that the mains sewer would be used for disposal of foul sewage. They concluded that subject to consultation with Yorkshire Water, there is no objection to the scheme and a condition was recommended to be added to the permission requiring drainage arrangements to be agreed in writing prior to the commencement of the development.
- 10.46 Yorkshire Water have no objections subject to conditions.
- 10.47 As such, subject to recommended conditions, the proposal would be acceptable in terms of drainage in accordance with Policy ENV1 of the Local Plan, and Policies SP15 and SP19 or the Core Strategy and the national policy contained within the NPPF.

#### Ecology and Trees

- 10.48 In respect of this matter, the submission includes a Tree Survey, Tree Impact Plan, Tree Constraints Plan, Arboriculturally Impact Assessment and an ecological assessment.
- 10.49 The County Ecologist was consulted on the application and noted the ecological assessment provided. It was deemed that the property would be negligible for bat species and held no objection to the application. It was recommended that the works be carried out outside bat breeding season (May-September) and bird nesting season (March-September) and that the works be in accordance with the Ecological Appraisal provided. These would be added as conditions to the permission were it to be granted.
- 10.50 In terms of impact on trees, the Council's arboriculturist was consulted on the proposal and held no objection to the scheme, but recommended a condition be added to the permission requiring an Arboricultural Method Statement be submitted to the LPA showing tree protection measures during construction.
- 10.51 In terms of ecological impact and impact on trees, subject to the aforementioned conditions, the proposals accord with Policies ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

#### Contaminated Land

- 10.52 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 189 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination.

- 10.53 The application has been supported by a Contaminated Land Screening Assessment Form which does not identify any potential contaminated land issues.
- 10.54 The contamination consultant for the Council has confirmed that as the Screening Assessment does not identify any significant potential contamination sources, no further investigation or remediation work is required. However, a condition has been recommended which requires the reporting of unexpected contamination detected during construction to be reported to the Local Planning Authority.
- 10.55 Therefore, subject to the aforementioned condition, it is considered that the proposal is considered to accord with the provision of Policy ENV2 of the Selby District Local Plan and paragraph 183 of the NPPF with respect to contamination.

#### Consideration of whether Very Special Circumstances Exist

- 10.56 The proposal has been identified as inappropriate development in the Green Belt by definition with other harms identified as the loss of openness of the Green Belt both spatially and visually and the harm arising from the negative impact on the character and appearance of the Bilbrough Conservation Area and that of the local area.
- 10.57 The main issue to assess is whether there are any other considerations that when taken individually or collectively amount to the very special circumstances necessary to clearly outweigh the identified harm to the Green Belt and any other harms.
- 10.58 What constitutes very special circumstances (VSC), will depend on the weight of each of the factors put forward and the degree of weight to be accorded to each is a matter for the decision taker. Firstly, it is to determine whether any individual factor taken by itself clearly outweighs the harm. Secondly to consider whether, a number of factors ordinary combine to create VSC.
- 10.59 The weight to be given to any particular factor will be a matter of degree and planning judgement. There is no formula for providing a ready answer to any development control question on the green belt. Neither is there any categorical way of deciding whether any particular factor is a 'very special circumstance' and the list is endless but the case must be decided on the planning balance qualitatively rather than quantitatively.
- 10.60 For VSC to exist the harm by reason of inappropriateness needs to be 'clearly outweighed'. It is not enough simply to show that the harm and the countervailing considerations are in balance or marginally providing improvement to the site.
- 10.61 The case for Very Special Circumstances is put forward in the planning statement submitted with the application and states that the new dwelling would enhance the Conservation Area rather than detract and that the design of the new house is justifiable due to the run down, dilapidated state of the existing site and poor quality of the existing dwelling on site. Further, planning statement sets out that Very Special Circumstances should apply as the new house would be fully wheelchair accessible and would have a



lift, which would allow the applicant to be able to remain in a property in the village where they have lived for 38 years as they age.

- 10.62 Supporters of the application argued that the development should be weighed against the Policies of the new emerging Selby District Local Plan in terms of its acceptability. These policies are not yet adopted and therefore the application has been assessed using the adopted development plan and advice from the Government in the NPPF and has been found to be unacceptable in principle. Moreover, even if the emerging plan had more weight, there is nothing in the thrust of the policies to lead officers towards a different conclusion on this application.
- 10.63 The case for Very Special Circumstances discussed in paragraph 10.61 of this report is noted, however none of the points put forward in the application can be attributed any more than limited weight. Similarly, the letters of support are of limited weight.
- 10.64 Overall, it is concluded that none of the matters put forward are of sufficient weight to clearly outweigh the substantial harm to the Green Belt by definition, the harm to the openness of the Green Belt, the harm to a Designated Heritage Asset and the character and appearance of the area.

#### *Section 149 of the Equality Act 2010*

- 10.65 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.
- 10.66 The proposed development would not result in a negative effect on any person or persons with protected characteristics under The Equality Act 2010.

### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 As set out above, it is considered that the proposed development would constitute inappropriate development in the Green Belt by definition and further harm to openness of the Green Belt has been identified.
- 11.2 In addition, the development would also cause 'less than substantial harm' as defined in paragraph 208 of the NPPF to a designated heritage asset (Bilbrough Conservation Area) and the public benefit identified is not sufficient to outweigh this harm. There would be additional harm to the character and appearance of the area.
- 11.3 The case put forward for very special circumstances is not considered to clearly outweigh the aforementioned harms. Therefore, the proposal is contrary to Policies SP2,

SP3, SP18 and SP19 of the Core Strategy, ENV1 and ENV25 of the Selby District Local Plan and with the advice within the NPPF.

11.4 Based on the above assessment the application is recommended for refusal.

## 12.0 RECOMMENDATION

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

1. It is considered that the proposed new dwelling with a residential annexe and store room would represent inappropriate development in the Green Belt due to being materially larger than the existing dwelling and would have an adverse detrimental impact on the essential characteristics of the Green Belt by reducing the openness both spatially and visually due to additional built form and the scale and position of the development within the site. No very special circumstances exist sufficient to clearly outweigh the harm by definition and additional harm. The development would therefore be contrary to the Policies SP2 and SP3 of the Core Strategy and with the advice within the NPPF.
2. The proposal due to its scale, design, height, massing, footprint and layout would result in a detrimental impact on the character and appearance of the area and would result in 'less than substantial harm' (as defined in paragraph 208 of the NPPF) to the Bilbrough Conservation Area and the identified public benefit would not outweigh the harm to the significance of the heritage asset. The proposal is therefore contrary to Policies ENV1 and ENV25 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the national policy contained within the NPPF in relation to Heritage Assets and the guidance in relation to achieving well designed and beautiful places particularly paragraph 135.
3. The case put forward for Very Special Circumstances does not clearly outweigh the harm which would be caused by the proposal by reason of its inappropriateness in Green Belt, further harm to openness of the Green Belt, the 'less than substantial' harm to a designated heritage asset and to the character and appearance of the area. Therefore, the proposal is contrary to Policies SP2, SP3, SP18 and SP19 of the Core Strategy, ENV1 and ENV25 of the Selby District Local Plan and with advice contained in the NPPF.

**Target Determination Date:** 14 June 2024

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**Appendix 1 – Site Layout Plan**