

# Public Document Pack

**HAMBLETON**  
DISTRICT COUNCIL

## AGENDA

Committee Administrator: Democratic Services Officer (01609 767015)

Tuesday, 19 May 2015

Dear Councillor

### NOTICE OF MEETING

Meeting            **PLANNING COMMITTEE**  
Date                **Thursday, 28 May 2015**  
Time                **1.30 pm**  
Venue               **Council Chamber, Civic Centre, Stone Cross, Northallerton**

Yours sincerely

*P. Morton.*

Phillip Morton  
Chief Executive

To all Members of the Council

**PLEASE NOTE THAT THERE WILL INDUCTION AND REFRESHER TRAINING FOR MEMBERS  
COMMENCING AT 10.00am**

## **AGENDA**

### **Page No**

1. MINUTES 1 - 4  
To confirm the minutes of the meeting held on 30 April 2015 (P.33 – P.34), attached, and 26 May 2015, to follow.
2. APOLOGIES FOR ABSENCE.
3. PLANNING APPLICATIONS 5 - 78  
Report of the Director of Environmental and Planning Services.  
  
Please note that plans are available to view on the Council's website through the Public Access facility.
4. MATTERS OF URGENCY  
Any other business of which not less than 24 hours prior notice, preferably in writing, has been given to the Chief Executive and which the Chairman decides is urgent.

# Agenda Item 1

Minutes of the meeting of the PLANNING COMMITTEE  
held at 1.30 pm on Thursday, 30th April, 2015 at  
Yorkshire Suite, Golden Lion Hotel, Northallerton

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## Present

Councillor D A Webster (in the Chair)

Councillor	P Bardon	Councillor	J Noone
	D M Blades		C Rooke
	G W Ellis		Mrs M Skilbeck
	Mrs J A Griffiths		P G Sowray
	K G Hardisty		

## Also in Attendance

Councillor	B Phillips	Councillor	M S Robson
	M Rigby		

Apologies for absence were received from Councillors D E Adamson and J Coulson

## P.33 MINUTES

### THE DECISION:

That the minutes of the meeting of the Committee held on 2 April 2015 (P.30 - P.32), previously circulated, be signed as a correct record.

## P.34 PLANNING APPLICATIONS

The Committee considered reports of the Director of Environmental and Planning Services relating to applications for planning permission. During the meeting, Officers referred to additional information and representations which had been received.

Except where an alternative condition was contained in the report or an amendment made by the Committee, the condition as set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

The abbreviated conditions and reasons shown in the report were to be set out in full on the notices of decision. It was noted that following consideration by the Committee, and without further reference to the Committee, the Director had delegated authority to add, delete or amend conditions and reasons for refusal.

In considering the report(s) of the Director of Environmental and Planning Services regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations. Where the Committee deferred consideration or refused planning permission the reasons for that decision are as shown in the report or as set out below.

Where the Committee granted planning permission in accordance with the recommendation in a report this was because the proposal is in accordance with the development plan the National Planning Policy Framework or other material considerations as set out in the report unless otherwise specified below. Where the Committee granted planning permission contrary to the recommendation in the report the reasons for doing so and the conditions to be attached are set out below.

**THE DECISION:**

That the applications be determined in accordance with the recommendation in the report of the Director of Environmental and Planning Services, unless shown otherwise:-

- (1) 15/00125/FUL - Proposed two storey extension to form utility room/family and bedroom at 7 The Court, Bedale for Mr R Figg

PERMISSION REFUSED

(The applicant's agent, Mike Barningham, spoke in support of the application).

- (2) 14/01472/FUL - Construction of 2 dwellings as amended by plans received by Hambleton District Council on 6 February 2015 at Greenbank Farm, Dalton for Mr S Bradbury

PERMISSION GRANTED subject to a Section 106 Agreement to secure the emergency pedestrian access route to the highway

- (3) 15/00422/FUL - Construction of a dwelling and associated landscaping works at Land east of Fourways, Raskelf Road, Easingwold for Ms L Jarvis

PERMISSION GRANTED

(The applicant's agent, Graham Holbeck, spoke in support of the application).

- (4) 15/00271/TPO - Fell tree covered by Tree Preservation Order No 1992/02 at 69 High Street, Great Ayton for Mrs C Holdsworth

PERMISSION GRANTED

(Mr John Fletcher spoke on behalf of Great Ayton Parish Council objecting to the application.)

- (5) 15/00221/OUT - Outline application for a single storey dwelling at Land to the North of Springfield, Station Road, Scruton for Mr David Ward

PERMISSION GRANTED

(Janet Crampton spoke on behalf of Scruton Parish Council in support of the application.)

- (6) 15/00408/OUT - Outline application for residential development at Land north of The Paddocks, Main Street, Sessay for Mr Mike Wilkinson

PERMISSION GRANTED

(The applicant's agent, James Ellis, spoke in support of the application).

- (7) 15/00182/FUL - Change of use of Public House to dwelling at Blackwell Ox, Huby Road, Sutton-on-the-Forest for P Hourigan

PERMISSION GRANTED

The meeting closed at 3.00 pm

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Chairman of the Committee

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# PLANNING APPLICATIONS

**The attached list of planning applications is to be considered at the meeting of the Planning Committee at the Civic Centre, Stone Cross, Northallerton on Thursday 28 May 2015. The meeting will commence at 1.30pm.**

Further information on possible timings can be obtained from the Democratic Services Officer, Louise Hancock, by telephoning Northallerton (01609) 767015 before 9.00 am on the day of the meeting.

The background papers for each application may be inspected during office hours at the Civic Centre by making an appointment with the Director of Environmental and Planning Services. Background papers include the application form with relevant certificates and plans, correspondence from the applicant, statutory bodies, other interested parties and any other relevant documents.

Members are asked to note that the criteria for site visits is set out overleaf.

Following consideration by the Committee, and without further reference to the Committee, the Director of Environmental and Planning Services has delegated authority to add, delete or amend conditions to be attached to planning permissions and also add, delete or amend reasons for refusal of planning permission.

Mick Jewitt  
Director of Environmental and Planning Services

# SITE VISIT CRITERIA

1. The application under consideration raises specific issues in relation to matters such as scale, design, location, access or setting which can only be fully understood from the site itself.
2. The application raises an important point of planning principle which has wider implications beyond the site itself and as a result would lead to the establishment of an approach which would be applied to other applications.
3. The application involves judgements about the applicability of approved or developing policies of the Council, particularly where those policies could be balanced against other material planning considerations which may have a greater weight.
4. The application has attracted significant public interest and a visit would provide an opportunity for the Committee to demonstrate that the application has received a full and comprehensive evaluation prior to its determination.
5. There should be a majority of Members insufficiently familiar with the site to enable a decision to be made at the meeting.
6. Site visits will usually be selected following a report to the Planning Committee. Additional visits may be included prior to the consideration of a Committee report when a Member or Officer considers that criteria nos 1 - 4 above apply and an early visit would be in the interests of the efficiency of the development control service. Such additional site visits will be agreed for inclusion in consultation with the Chairman or Vice-Chairman of the Planning Committee.



# **PLANNING COMMITTEE**

## **Thursday 28th May 2015**

<b>Item No</b>	<b>Application Ref/ Officer/Parish</b>	<b>Proposal/Site Description</b>
<b>1</b>	15/00694/FUL Mr A J Cunningham Aldwark  Page no. 9	Construction of 3 dwelling houses and associated garages  For: Mr & Mrs M & C Brooks At: Land adjacent The Cottages, Aldwark  <b>RECOMMENDATION: GRANT</b>
<b>2</b>	14/01955/FUL Mr P Jones Bedale  Page no. 18	Construction of 2no semi-detached houses and a workshop conversion to dwellinghouse and alterations to the vehicular access as per amended plans received by Hambleton District Council on 5th May 2015  For: Mr Ian Scott (Messrs Ian Scott & Scott Tweddle) At: 8A Emgate, Bedale  <b>RECOMMENDATION: GRANT</b>
<b>3</b>	15/00259/FUL Mr A Cunningham Dalton  Page no. 26	Construction of replacement dwellinghouse  For: Mr J Binks At: Dalton Lane, Dalton  <b>RECOMMENDATION: GRANT</b>
<b>4</b>	15/00553/OUT Mr A J Cunningham Sessay  Page no. 32	Phased construction of new multi-use village hall, cricket pavilion and bowls club and new cricket pitch, multi-use games area, parking facilities & relocation of existing bowls lawn / demolition of existing village hall / outline planning for construction of 5 new homes  For: Sessay Parish Council At: Sessay Village Hall, Main Street, Sessay  <b>RECOMMENDATION: GRANT</b>
<b>5</b>	15/00145/MRC Mr T Wood Sowerby  Page no. 42	Variation of Conditions 34 and 35 of Application Reference Number: 10/02373/OUT- highway improvements and widening of mini roundabout  For: Mulberry Homes (Yorkshire) Ltd/Broadacres Services Ltd At: Land East of Topcliffe Road and South of Gravel Hole Lane, Topcliffe Road, Sowerby  <b>RECOMMENDATION: GRANT</b>
<b>6</b>	15/00274/REM Mr T Wood Sowerby  Page no. 61	Reserved Matters application for planning application 10/02373/OUT- food store and associated landscaping and car parking  For: Aldi Stores Ltd and Castlevale Group Ltd At: Land at Topcliffe Road, Sowerby  <b>RECOMMENDATION: GRANT</b>

<p><b>7</b></p>	<p>15/00310/FUL Mr A J Cunningham Sowerby</p> <p>Page no. 67</p>	<p>Replacement of dwelling with a 2 storey dwelling and construction of a dormer bungalow to the rear with associated single domestic garages as amended by drawings and email received by Hambleton District Council on 14 May 2015</p> <p>For: Mr &amp; Mrs Costick At: 20 Croft Heads, Sowerby</p> <p><b>RECOMMENDATION: GRANT</b></p>
<p><b>8</b></p>	<p>15/00146/MRC Mr T Wood Topcliffe</p> <p>Page no. 72</p>	<p>Variation of Condition 9 of - Application Reference Number: 11/01435/FUL - improved junction</p> <p>For: Mulberry Homes (Yorkshire) Ltd/Broadacres Services Ltd At: Land at A168(T)/B1448 junction, Topcliffe Road, Sowerby</p> <p><b>RECOMMENDATION: GRANT</b></p>

**Parish: Aldwark**  
Ward: Easingwold  
**1**

Committee Date: 28 May 2015  
Officer dealing: Mr A J Cunningham  
Target Date: 4 June 2015

**15/00694/FUL**

**Construction of 3no dwelling houses and associated garages  
at Land adjacent to The Cottages, Aldwark  
for Mr & Mrs M & C Brooks**

**1.0 SITE DESCRIPTION AND PROPOSAL**

1.1 This application seeks full planning consent for 3 dwellings to the northern periphery of Aldwark, to the south of Main Street. The site is positioned adjacent to the domestic curtilage of The Paddocks which is to the north of Main Street. The site is presently an agricultural field which is used for grazing.

1.2 The proposed dwellings would involve the creation of two vehicular accesses to the public highway.

1.3 Dwelling 1 would have maximum dimensions of 16.4m x 10.2m, with a total height of approximately 7.8m, and would incorporate an integral garage. Dwelling 2 would measure approximately 10.7m x 9.3m, with a total height of approximately 7.9m. Dwelling 3 would measure approximately 14.7m x 10.9m, with a total height of approximately 7.9m. Dwellings 2 and 3 would sit adjacent to detached domestic garages.

1.4 Dwellings 1 and 2 would be formed of NBS Farmhouse Antique Red Multi Stock bricks and Sandtoft County clay tiles. Dwelling 3 would be formed of Desimpel Hathaway Brindled Red Multi Stock bricks again with Sandtoft Clay tiles. External doors would be formed of composite materials. Windows would be white painted timber.

1.5 The access track and turning area to each property is proposed to be formed of natural gravel on a geo-textile weed suppressant membrane on a compacted sub base.

1.6 The existing north-western boundary hedgerow is proposed to be retained.

1.7 An updated drawing has been received on 22 April 2015 to provide a full indication of the appearance of the development in the street scene.

**2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

2.1 There is no relevant planning and enforcement history.

**3.0 NATIONAL AND LOCAL POLICY:**

3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows;

- Core Strategy Policy CP1 - Sustainable development
- Core Strategy Policy CP2 - Access
- Core Strategy Policy CP4 - Settlement hierarchy
- Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
- Core Strategy Policy CP17 - Promoting high quality design
- Core Strategy Policy CP19 - Recreational facilities and amenity open space

Core Strategy Policy CP21 - Safe response to natural and other forces  
Development Policies DP1 - Protecting amenity  
Development Policies DP2 - Securing developer contributions  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP6 - Utilities and infrastructure  
Development Policies DP10 - Form and character of settlements  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 - General design  
Development Policies DP37 - Open space, sport and recreation  
Development Policies DP43 - Flooding and floodplains  
Interim Guidance Note - adopted by Council on 7th April 2015  
National Planning Policy Framework

## **4.0 CONSULTATIONS**

4.1 Parish Council; expired 30.04.2015 - "The Aldwark parish councillors have consulted with a wide cross-section of Aldwark residents and have found no support for this application. Most residents object to the proposed development on a number of grounds including the adverse impact on the character of the village, the loss of farmland, the extension of the village boundary and the lack of affordable housing. This general objection to the proposals is evidenced by the significant number of submissions made by residents on the HDC planning website". Comment on the IPG and conclude: "whilst some modest development within the existing boundaries of Aldwark would be supported, this proposed development is not considered to be acceptable and the Aldwark Area Parish Council therefore recommends to Hambleton DC that consent is refused".

4.2 NYCC Highways - Conditions recommended regarding discharge of surface water, private access/verge crossings: construction requirements, approval of details for works in the highway, completion of works in the highway, provision of turning and parking areas, precautions to prevent mud on the highway, on-site parking, on-site storage and construction traffic during development.

4.3 Environmental Health - No objections.

4.4 MOD - No objections.

4.5 Yorkshire Water - It is noted that the developer has modified his foul water drainage proposal from private package treatment plant, to public foul sewer "Main Sewer", after a telephone discussion, on 10th April, when informed that a public foul sewer exists across the road from the site. It was noted that surface water will be drained to soakaways. On this basis, no further comments are required from Yorkshire Water.

4.6 Neighbours notified and site notice posted; expired 07.05.15 - 32 objections received in summary mainly concerning:

- Site drainage
- No environmental benefits
- Impact on existing landscaping to site
- Loss of agricultural land
- No affordable housing
- Set precedent for other villages
- Impact on traffic and highway safety
- No justification from SHLAA
- Doesn't conform to other LDF policies
- Infrastructure not able to accept proposal

- Disruption during construction phase
- Detrimental impact on natural, built and historic environment
- Doesn't respect character of village
- Position of site notice
- Will not support local services in settlements nearby
- Inappropriate in scale and form
- Ecological impact of development
- No demand for executive housing
- Not sustainable development
- Not within village boundary
- Impact on Conservation Area
- Loss of greenfield site
- At odds with Aldwark Development Brief of 1991

4.7 Press Advert; Published: 02.05.2015; Expires: 25.05.15 - Response awaited.

## **5.0 OBSERVATIONS**

5.1 The main issues for consideration in this case relate to (i) the principle of new dwellings in this location, outside Development Limits, together with an assessment of the likely impact of the proposed three dwellings on the character and appearance of the village, (ii) drainage, (iii) highway safety, (iv) neighbour amenity and (v) developer contributions.

Principle of development and impact on character and appearance

5.2 The site falls outside of Development Limits as Aldwark does not feature within the settlement hierarchy defined within policy CP4 of the Core Strategy. Policy DP9 states that development will only be granted for development "in exceptional circumstances". The applicant does not claim any of the exceptional circumstances identified in Policy CP4 and, as such, the proposal would be a departure from the development plan. However, it is also necessary to consider more recent national policy in the form of the National planning Policy Framework (NPPF) published in March 2012. Paragraph 55 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances".

The NPPF identifies some special circumstances that are consistent with those set out in Policy CP4, with the addition of "the exceptional quality or innovative nature of the design of the dwelling". None of these exceptions are claimed by the applicant.

5.3 To ensure appropriate consistent interpretation of the NPPF alongside policies CP4 and DP9, on 7 April 2015 the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and relates to residential development within villages. The IPG has brought in some changes and details how Hambleton District Council will now consider development in and around smaller settlements and has included an updated Settlement Hierarchy.

5.4 The IPG states that the Council will support small-scale housing development in villages "where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community AND where it meets ALL of the following criteria:

1. Development should be located where it will support local services including services in a village nearby.
2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies."

5.5 In the 2014 settlement hierarchy contained within the IPG, Aldwark is defined as an "other settlement" and is therefore classed as a sustainable settlement and within the IPG small scale development adjacent to the main built form of the settlement "will be supported where it results in incremental and organic growth". To satisfy criteria 1 of the IPG the proposed development must provide support to local services including services in a village nearby and the position of Aldwark is crucial to understanding whether the settlement is considered to be a cluster village. The guidance within Annex B of the IPG provides a definition of a cluster village, particularly its links to nearby settlements in terms of distance and type and quality of link. The nearest settlements to Aldwark are Alne, Great Ouseburn and Linton-on-Ouse. These settlements whilst positioned more than 2km from Aldwark are considered close enough to contribute towards Aldwark's sustainability and would contribute to a sustainable community. Additionally this scheme would support local services in these settlements nearby. The scheme would also assist and benefit from the services that Aldwark has. It is noted that the IPG refers to instances when development would not contribute towards sustainable communities and when settlements would not be considered as cluster villages. It is the services contained within Aldwark, such as the public house, hotel, church and limited bus service that would be balanced against the distances to the adjacent settlements which would result in Aldwark being considered a sustainable community.. Criteria 1 would be satisfied.

5.6 Proposals must also be small in scale and provide a natural infill or extension to an existing settlement and also conform with other relevant LDF Policies. Aldwark is characterised by linear development and the addition and extent of this residential development to the northern periphery of the settlement needs to reflect the established character. There are 62 residential properties within Aldwark and therefore the size of this residential development needs to be considered against this number when its scale is being scrutinised.

5.7 It is important to consider the likely impact of the proposed development with particular regard to criteria 2, 3 and 4 of the IPG. The proposed dwellings would be within a field that forms the agricultural landscape surrounding the village and which contributes to its rural character. The following detailed advice within the IPG is considered to be relevant:

"Proposals will be assessed for their impact on the form and character of a settlement. Consideration should be given to the built form of a settlement, its historical evolution and its logical future growth and how the proposal relates to this."

"Any detrimental impact on the character, appearance and environmental quality of the surrounding area should be avoided and development should not compromise the open and rural character of the countryside."

5.8 This small scale development would extend the linear character of the village. It is noted that Aldwark has been the subject of incremental infill of dwellings in the past which has contributed to its linear character. The proposal would still be within an area adjoining the historical built form which has characterised Aldwark in taking note of the positioning of

the dwelling and domestic curtilage of The Paddocks to the north. The scheme would allow the retention of green space around the village periphery whilst representing logical growth of the settlement. As such it is considered that the development proposed, and the limited loss of openness, would appropriately respect the general built form of the village. There is no identified harmful impact to the built or historic environment.

#### Drainage and water supply

5.9 The site could be adequately served by the foul sewer and a fresh water supply could be provided. It is noted that Yorkshire Water have not raised objections to the scheme. No localised site drainage issues have been identified as an area of concern.

#### Highways

5.10 No objections have been raised by the Highway Authority regarding the of two accesses as the principle accesses to the site. In view of this it is not considered that the proposed development would adversely impact highway safety.

#### Neighbour amenity

5.11 Due to the positioning of the proposed dwellings in relation to the existing settlement pattern, and their separation to each other and overall design, it is considered that the scheme would not result in a harmful impact on neighbour amenity.

#### Developer contributions

5.12 Under the Community Infrastructure Levy (CIL) regulations the proposed dwellings are liable for payment of CIL at a rate of £55 per sq. m, the rate adopted by the Council on 7 April 2015. The Agent has been advised of this and has calculated the CIL contribution to be £30,250.

#### Public Consultation

5.13 In regard to the neighbour and Parish Council responses not already addressed, it is noted that the proposal is for executive and not affordable housing. Whilst encouraged, the provision of affordable housing in this location is not a requirement of the IPG. This site would not set a precedent for other villages and each scheme is assessed on its own merits. Disruption during the construction phase could be mitigated by way of a planning condition. The site notice was positioned adjacent the site in a publicly visible position. Demand for housing is not a material consideration in the planning process and one which must be addressed by the developer. The development brief for Aldwark is noted in its role of assisting the regeneration of the village in the 1990s. Due to the time that has lapsed since its adoption the development brief carries little weight as a material consideration in the determination of this application.

### 6.0 **RECOMMENDATION:** APPROVAL

6.1 Subject to any outstanding consultation responses and the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings and details received by Hambleton District Council on 2 April 2015 as amended by the drawing received by Hambleton District Council on 22 April 2015 unless otherwise approved in writing by the Local Planning Authority.

3. The dwellings hereby approved shall not be formed other than of the materials specified on the drawing 592/02A unless otherwise agreed in writing by the Local Planning Authority.
4. No part of the development shall be used after the end of the first planting and seeding seasons following the first occupation or completion of the building(s) whichever is the sooner, unless the landscaping scheme shown on the landscaping plan received by Hambleton District Council on 22 April 2015 has been carried out. Any trees or plants which within a period of 5 years of planting die, are removed or become seriously damaged or diseased, shall be replaced with others of similar size and species.
5. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority
6. No dwelling shall be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with condition 5 above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.
7. No part of the existing boundary hedge along the north-western boundary of the site shall be uprooted or removed, other than to create the site accesses specified on drawing number 592/02A and the hedge shall not be reduced below a height of 1.5m other than in accordance with details that have been submitted to, and approved by, the Local Planning Authority.
8. The development hereby approved shall not be commenced until details of the foul sewage and surface water disposal facilities have been submitted and approved in writing by the Local Planning Authority.
9. The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under condition above.
10. The site shall be developed with separate systems of drainage for foul and surface water.
11. Prior to development commencing detailed cross sections shall be submitted to and approved in writing by the Local Planning Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.
12. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.



13. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements

- d. The crossings of the highway verge and footway shall be constructed in accordance with the approved details and Standard Detail number E6.
- e. Any gates or barriers shall be erected a minimum distance of 4.5 metres back from the carriageway of the existing highway and shall not be able to swing over the existing highway.
- h. The final surfacing of any private access shall not contain any loose material that is capable of being drawn on to the existing public highway.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

14. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until: The details of the following work listed below has been submitted to and approved in writing by the Local Planning Authority:

- The provision of a footway of minimum width 1.5 metres on the site's frontage joining to the existing footway to the west of the site.
- (ii) A programme for the completion of the proposed work has been submitted to and approved writing by the Local Planning Authority.

15. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority:

- The provision of a footway of minimum width 1.5 metres on the site's frontage joining to the existing footway to the west of the site.

16. No part of the development shall be brought into use until the approved vehicle parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference 592/02A). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

17. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.

18. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- a. on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- b. on-site materials storage area capable of accommodating all materials required for the operation of the site. The

approved areas shall be kept available for their intended use at all times that construction works are in operation.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) CP1, CP16, CP17, DP1, DP28 and DP32.
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. In order to help assimilate the development within the rural landscape.
5. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
6. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
7. The hedge is of important local amenity value and its protection is appropriate in accordance with Local Development Framework Core Strategy Policy CP16.
8. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
9. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
10. In the interest of satisfactory drainage and to avoid pollution of the water environment.
11. To ensure that the development is appropriate in terms of amenity in accordance with Local Development Framework Policies CP1 and DP1.
12. In the interests of highway safety.
13. To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.
14. To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.
15. In the interests of the safety and convenience of highway users.
16. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

17. To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

18. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

**Parish: Bedale**

Ward: Bedale

**2**

Committee Date: 28 May 2015

Officer dealing: Mr Peter Jones

Target Date: 13 November 2014

**14/01955/FUL**

**Construction of 2 semi-detached houses and a workshop conversion to dwellinghouse and alterations to the vehicular access as per amended plans received by Hambleton District Council on 5th May 2015 at The Stables 8A Emgate, Bedale for Mr Ian Scott (Messrs Ian Scott & Scott Tweddle)**

## **1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 This application is for the construction of a pair of semi-detached, two-bedroomed, dwellings and the conversion of an existing workshop building to form a one-bedroomed unit, on land to the rear of 5 Market Place and to the south of Emgate, in the centre of Bedale. Vehicular access would be taken from Emgate. The site curtilage is bounded to the north-east by a terrace of dwellings on the southern side of Emgate, to the north-west by a further terrace (which includes dwellings converted some years ago from retail units), and the Three Coopers Inn, to the west by the applicant's retail unit (5 Market Place) and to the south by the gardens/shared parking area of dwellings in Fleece Cottages. The site lies within the Bedale Conservation Area.
- 1.2 The applicant, in addition to the application site curtilage, owns 5 Market Place, a retail unit which is serviced from Emgate via one of two accesses, one directly adjacent to the Three Coopers Inn, over which the applicant has a vehicular right of way, and, secondly, the access proposed for the current application. In addition to serving the proposed new dwellings referred to in this application the applicant has expressed a willingness to extinguish the right of way adjacent to the Three Coopers (which does not meet current highway standards), and service the retail unit only from the proposed improved access adjacent to 8A Emgate (which is in his ownership).
- 1.3 The two new dwellings proposed comprise a pair of semi-detached units with a floor area of 62sq.m each with a dedicated parking space and private yard/amenity area with shared garden/green landscaped area. They would be constructed in reclaimed facing brickwork with natural clay pantiles.
- 1.4 The unit to be created by conversion from a workshop building is attached to the rear of the terrace in Emgate to the north-west of the proposed access and would comprise a one-bedroomed unit of 58sq.m floor area with a dedicated parking area and space for bin storage. It would be converted using existing/reclaimed brickwork with natural clay pantiles and white painted timber openings.
- 1.5 The proposed new layout would reduce the height of the rear boundary of 8A Emgate and provide a dedicated parking space for that property also. The reduction of the 8A boundary wall/fencing would provide the opportunity to improve the visibility at the proposed new multiple point of access into the site.
- 1.6 Amended plans were received on 5 May 2015. These plans made minor modifications to the position of the buildings, revised the window details to the side and rear elevations of the two proposed dwellings, altered external details of the buildings and revised the fenestration of the proposed conversion.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

2.1 78/0176/FUL: Conversion of former workshop to dwelling; Granted 23 February 1978.

2.2 Two dwelling units to the north of the site were converted from retail use in the 1970s.

## **3.0 RELEVANT PLANNING POLICIES**

3.1 The relevant policies are:

Core Strategy Policy CP4 - Settlement hierarchy  
Development Policies DP1 - Protecting amenity  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Development Policies DP28 - Conservation  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP32 - General design  
National Planning Policy Framework  
National Planning Practice Guidance

## **4.0 CONSULTATIONS**

4.1 Bedale Town Council: concerned in respect of access, visibility and additional traffic movements generated.

4.2 Highway Authority: recommended initially that the application be refused on the grounds of inadequate visibility from the site into Emgate. However, conditions to be imposed should permission be granted have subsequently been supplied and are included within this report.

4.3 North Yorkshire County Council (Historic Environment Team): requests an archaeological watching brief condition.

4.4 Yorkshire Water: no observations.

4.5 Environmental Health Officer: no objection.

4.6 The application was advertised by site notice at the front of the site and the 49 closest adjacent neighbours/businesses were notified by letter. Four responses have been received expressing concern about the potential increase in traffic using Emgate, the proximity of the dwellings to other properties, potential problems with surface water run-off and the need for an archaeological study of the site.

4.7 A re-notification and re-consultation exercise was undertaken on 6 May 2015. The Town re-iterated its comments. No further comments were received.

## **5.0 OBSERVATIONS**

5.1 The issues to be considered when determining this application are identified in the policies within the Local Development Framework Core Strategy and Development Policies document as set out above and relate, in this case, to:

- The sustainable nature of the site location;
- The scale, design and materials proposed and the impact on the appearance and character of the Conservation Area;
- Residential amenity;

- The size, type and tenure proposed;
- The potential impact on highway safety;
- Archaeological considerations;
- Surface water drainage; and
- Infrastructure contributions.

The contents of the National Planning Policy Framework are also relevant in this case.

#### Site location

- 5.2 The site is within the defined development limits of Bedale which is designated within the context of policy CP4 as a Service Centre having a wide range of services and facilities appropriate to accept additional residential development. The site is, consequently, a sustainable location in national and local policy terms.

#### Scale, design, materials and conservation impact

- 5.3 The proposed dwelling units are modest in size and generally simple in form. However, the design of the one-bedroom unit was considered somewhat contrived in order to achieve sufficient space within this small structure. The eaves to one side of the building were proposed to be lifted, creating a slightly un-sympathetic asymmetric roof form, out of context with the local vernacular and conservation area location. The revised scheme has improved the appearance of this element of the scheme and overall this is now considered to be acceptable. The issue of highway safety is examined below but the allocation of parking spaces and their location within the site is such that vehicles would be mainly hidden from public view whilst still having adequate manoeuvring space to leave the site in a forward gear. This development is, in some respects similar to a site on the northern side of Emgate permitted some 4-5 years ago which comprises six houses of varying scale served by a similar access with, perhaps, even more restricted visibility.

#### Residential amenity

- 5.4 The proximity of the proposed dwellings to existing properties has been referred to by some neighbours. The three proposed dwellings would sit in close proximity to the existing house at 8A Emgate and within about 3m of the boundary wall with the neighbouring garden to 10 Emgate. Whilst the conversion of the workshop building would have no adverse impact on neighbour amenity through either loss of light or privacy, in the original scheme the proposed dwelling would have itself had a sub-standard level of amenity due to having no external amenity space and large areas of glazing to the main elevation, offering views into the property. The glazing has been amended to address this issue.
- 5.5 The closest dwelling to the proposed semi-detached units is 8A Emgate which is also owned by the applicant and does not have openings facing the semi-detached pair. Similarly there would be no openings in the new dwellings facing this property. However, there would be two first floor bedroom windows facing eastwards into the rear gardens of 10 and 12 Emgate. On close examination only one of these windows raises amenity issues and the applicant has amended the scheme to address this through the addition of diffused glazing with a restricted opening mechanism to the rear elevation and a new window with high sill to the gable elevation.

#### Size, type and tenure

- 5.6 The dwellings have been designed to appeal to young local people and small families with their town centre location reducing the dependence on the use of the private car.

Whilst there is no occupancy restriction on future residents, it is understood that the one-bedroomed unit is to be occupied by one of the applicants who does not own a car. The justification to policy DP13 notes a lack of one and two-bedroomed properties in Bedale. The form and layout proposed is consequently considered to have benefits in this respect for local people.

5.7 Paragraph 50 of the National Planning Policy Framework states that:

"To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning Authorities should:

- Plan for a mix of housing based on current and future demographic trends and the needs of different groups in the community (such as but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes):
- Identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand."

It is considered that the current proposal is fully in accordance with this target which similarly reflects the content of the Council's Policies CP8 and DP13.

#### Highway safety

5.8 It has been noted above that the Highway Authority has recommended that the application be refused due to the lack of visibility required for this level of development. It should be noted, as referred to in paragraph 1.2 above, that there are benefits to be gained by allowing servicing of the applicant's retail premises from the proposed improved access whilst also giving up rights to use an existing arched access-way closer to the junction of Emgate with The Market Place. A legal methodology for this should be agreed prior to any permission being granted.

5.9 Notwithstanding the comments received from the Highway Authority referred to above it is considered, on balance, that a conditional permission supported by an appropriate legal agreement to prevent continued use of the poorer access is appropriate in this case for the reasons set out in this report. The Highway Authority has subsequently indicated conditions which it would be relevant to impose to ensure improvements to the point of access should the Committee agree that permission should be granted.

#### Archaeology

5.10 Amongst other comments received from respondents in this case was concern in respect of the archaeological sensitivity of the site. As noted above comments received from North Yorkshire's Historic Environment Team indicates a requirement for an archaeological watching brief should planning permission be granted. An appropriate condition is recommended to cover this aspect.

#### Drainage

5.11 A concern was also expressed with regard to surface water from the site and any impact on adjacent properties. Surface water from the development is proposed to be disposed of via an existing mains sewer which was stated to be acceptable by Yorkshire Water. Details of relevant connections would be supervised during the building control process.

## Infrastructure

- 5.10 The proposed three new units are liable under the Hambleton District Council Community Infrastructure charging schedule.

### **6.0 RECOMMENDATION**

- 6.1 That subject to (a) any outstanding consultations; and (b) the satisfactory prior completion of a planning obligation to secure the cessation of use of the access closer to the junction of Emgate with The Market Place, permission is **GRANTED** subject to the following conditions:
1. The development hereby permitted shall be begun within three years of the date of this permission.
  2. Prior to development commencing, details and samples of the materials to be used in the construction and conversion of the external surfaces of the development, including the access drive, footways and internal site road shall be made available on the application site for inspection and the Local Planning Authority shall be advised that the materials are on site and the materials shall be approved in writing by the Local Planning Authority. (a) The development shall be constructed of the approved materials in accordance with the approved method. (b) The mortar mix and pointing finish to be employed shall be agreed in writing by the Local Planning Authority. (c) Prior to development commencing details of the cross-section of the all window and door frames, and any glazing bars, together with details of the method of construction and opening mechanism and opening movement of all windows shall be submitted to and approved in writing by the Local Planning Authority.
  3. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority
  4. No dwelling shall be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with condition 3 above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.
  5. Prior to the occupation of the semi-detached dwellings the east-facing first floor windows shall be fitted with diffused glazing and a restricted opening mechanism in accordance with details to be agreed in writing with the Local Planning Authority. The glazing and opening mechanism shall remain in place at all times unless otherwise agreed in writing with the Local Planning Authority.
  6. The development shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved by the Local Planning Authority. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.
  7. (A) No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of



significance and research questions; and: 1. The programme and methodology of site investigation and recording; 2. Community involvement and/or outreach proposals; 3. The programme for post investigation assessment; 4. Provision to be made for analysis of the site investigation and recording; 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation; 6. Provision to be made for archive deposition of the analysis and records of the site investigation; 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

(B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

(C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

8. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.
9. No part of the development shall be brought into use until the existing access on to Emgate (Access A) has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority. No new access shall be created without the written approval of the Local Planning Authority.
10. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access to the site has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements: (a) The details of the access shall have been approved in writing by the Local Planning Authority; (b) The crossing of the footway shall be constructed in accordance with the approved drawing Proposed Site Plan ST2 and the Standard Detail number E6; (c) Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing highway; (d) That part of the access extending 6 metres into the site from the carriageway of the existing highway shall be at a gradient not exceeding 1 in 15; (f) The final surfacing of any private access within 6 metres of the public highway shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.
11. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or buildings or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority: (a) vehicular accesses; (b) vehicular parking ; (c) vehicular turning arrangements; and (d) manoeuvring arrangements.

12. No dwelling shall be occupied until the related parking facilities have been constructed. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
13. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.
14. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of: (a) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; (b) on-site materials storage area capable of accommodating all materials required for the operation of the site; and (c) The approved areas shall be kept available for their intended use at all times that construction works are in operation.
15. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings (Ref ST2; ST3; ST4) attached to planning application 14/01955/FUL received by Hambleton District Council on 18th September 2014 unless otherwise approved in writing by the Local Planning Authority.

The reasons are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure that the external appearance of the development is compatible with the Conservation Area surroundings of the site and the area as a whole in accordance with Policies CP16 and DP28.
3. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its Conservation Area surroundings.
4. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its Conservation Area surroundings.
5. In the interest of the amenity and privacy of adjacent neighbours in accordance with Policy DP1.
6. In order to enhance the visual appearance of the development within its Conservation Area setting.

7. In accordance with Policy DP29 and Section 12 of the NPPF as the site is of archaeological interest
8. In the interests of highway safety.
9. In the interests of highway safety.
10. In order to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.
11. In order to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.
12. In order to provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.
13. In order to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
14. In order to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
15. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies DP1, CP16 and DP28.

**Parish: Dalton**  
Ward: Sowerby & Topcliffe

Committee Date: 28 May 2015  
Officer dealing: Mr A J Cunningham

**3**

Target Date: 6 April 2015

**15/00259/FUL**

**Construction of replacement dwellinghouse  
at Part OS Field 5019, Dalton Old Airfield Industrial Estate, Dalton  
for Mr J Binks**

### **1.0 SITE DESCRIPTION AND PROPOSAL**

1.1 This application refers to the construction of a replacement dwellinghouse. The applicant has presented evidence as part of their application submission to suggest that a previous permission on the site 2/37/56B/PA was commenced (the foundations were set) but was not completed. Application 2/37/56B/PA related to a 3 bedroom agricultural workers dwelling. The proposed dwelling would sit partly on the foundations in situ.

1.2 The application site is to the south-west of the periphery of Dalton and sits to the south-west of an access track which previously formed the perimeter road to the former airfield. Via the public highway the site is approximately 0.5 miles away from the centre of Dalton although it is acknowledged that a green lane may permit a more direct access to the settlement.

1.3 The topography of the land is flat. Disused agricultural and former aerodrome structures sit immediately to the north and west of the application site. Agricultural land extends to the south.

1.4 The occupier of the proposed dwelling is a plant and machinery contractor which includes agricultural contracting. The applicant's agent has provided to the Council on 11 May 2015 an indication of the applicant's local client base. The applicant currently resides in Topcliffe.

1.5 The dwelling would be formed in an 'L' shape. Amended plans have been received on 8 May 2015 reducing the width of the two storey projection to the northern elevation. The dwelling would provide for a cloakroom, kitchen, living/dining area, playroom, hall, office, sitting room, wc / shower room and a utility area at ground floor level. At first floor the dwelling would comprise 6 bedrooms, a bathroom and a wc/shower room.

1.6 The dwelling, as amended, would have maximum dimensions of 18.3m x 16.5m, with a total height of approximately 8.5m. Materials for the proposed structure would comprise York Hand Made bricks and Sandtoft Clay pantiles.

1.7 Access to the proposed dwelling would be taken via a proposed track to the north which would connect to Dalton Lane. The track would be surfaced in gravel on hardcore and would be bound by a post and rail fence and landscaping.

### **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

2.1 2/37/56B/PA - Revised application for the siting and details of the construction of an agricultural workers bungalow with domestic garage at Part OS 7900; Granted 1985.

### **3.0 NATIONAL AND LOCAL POLICY:**

3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP15 - Rural Regeneration  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Core Strategy Policy CP19 - Recreational facilities and amenity open space  
Core Strategy Policy CP21 - Safe response to natural and other forces  
Development Policies DP1 - Protecting amenity  
Development Policies DP2 - Securing developer contributions  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP6 - Utilities and infrastructure  
Development Policies DP10 - Form and character of settlements  
Development Policies DP26 - Agricultural issues  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 - General design  
Development Policies DP37 - Open space, sport and recreation  
Development Policies DP43 - Flooding and floodplains  
Interim Guidance Note - adopted by Council on 7th April 2015  
National Planning Policy Framework

#### **4.0 CONSULTATIONS**

4.1 Parish Council; expired 09.03.2015 - No responses received as at 13.05.15.

4.2 NYCC Highways - No objections.

4.3 Environmental Health - No objections.

4.4 Scientific Officer - The above application is for a dwelling on the site of a former World War Two airfield and therefore there is the potential for contamination and/or unexploded ordnance to exist. In order to determine the risk from contamination and/or ordnance I would recommend conditions, relating to contaminated land and unexploded ordnance should planning approval be granted.

4.5 MOD - No objections.

4.6 Yorkshire Water - Based on the information submitted, no comments required from Yorkshire Water.

4.7 Neighbours notified and site notice posted; expired 23.03.15 - Supports proposal. Seeks clarification on the correspondence of the location and block plans, and seeking confirmation that the access would be only for domestic and agricultural vehicles.

#### **5.0 OBSERVATIONS**

5.1 The main issues for consideration in this case relate to (i) the principle of new dwellings in this location, outside Development Limits, together with an assessment of the likely impact of the proposed dwelling on the character and appearance of the village, (ii) drainage, (iii) highway safety, (iv) neighbour amenity and (v) developer contributions.

5.2 The planning balance of the principle of this scheme features three factors: the fall-back position of the commenced dwelling on site and whether it is a feasible alternative to the dwelling proposed, the employment of the applicant as a justifying factor for the dwelling outside of settlement limits, and the implications of the Interim Planning Guidance for dwellings outside of development limits.

5.3 The commenced dwelling is a three bedroom property which is smaller in scale than the proposed dwelling and would not provide the level of accommodation which the applicant is seeking. The feasibility of it being implemented is relatively low, particularly as it would need to be heavily extended to meet the needs of the applicant. The applicant would also need to meet the occupancy restriction which the agricultural worker's dwelling is subject to. The applicant's contracting business incorporates an element of agricultural work but would not meet the restriction placed on the commenced property. The fall-back position of the commenced dwelling features low in the planning balance.

5.4 The applicant has provided supporting information regarding their contracting enterprise, the extent of agriculture in this enterprise, and their Client base in relation to the application site. The application site is relatively central to their contracting operations locally. The applicant currently lives at Topcliffe with insufficient capacity to accommodate the applicant's contracting machinery on-site. Some of the machinery is currently stored at the applicant's relation's property in Dalton with the remainder moved from site to site. Whilst it is acknowledged that the proposal would enable the applicant to store machinery whilst not in use adjacent their dwelling the sustainability benefits of this scenario are not sufficient to on their own to justify the dwelling on site in terms of being an essential requirement to locate in the countryside. It is however not doubted that the applicant's business would support the sustainable rural economy. The applicant's business also features low in the planning balance.

5.5 The third principle issue relates to the Interim Planning Guidance which, as of 7 April 2015 ensures appropriate consistent interpretation of the NPPF alongside policies CP4 and DP9 for housing development outside of settlement limits. The IPG states that the Council will support small-scale housing development in villages "where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community AND where it meets ALL of the following criteria:

1. Development should be located where it will support local services including services in a village nearby.
2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies."

5.6 The dwelling would be sufficiently close to Dalton to be in a position to support local services. There is a fragmented settlement pattern to the south-west of Dalton, partly due to the redundant buildings remaining from the former airfield. The development would be small in scale and would generally reflect the existing built form. Due to the distance from the main part of the village the scheme could impact on the character of the village. As an alternative the commenced dwelling would also, if implemented, impact the character of this edge of the settlement and needs to be considered in the assessment of this scheme. The low feasibility of the implementation of the fall-back position means that its consideration in terms of character should be afforded less weight in the decision making process, but it must be borne in mind that the permission could still be implemented. A dwelling in this location

would not harm the natural, built or historic environment. The dwelling would have an impact but not a detrimental one on the open character and appearance of the surrounding countryside. The development would not lead to a coalescence of settlements. The dwelling could be accommodated within the capacity of the existing infrastructure. The development has the capacity to conform to the remaining LDF policies. It is clear that the development is compliant with the IPG save for alignment with the character of the village.

5.7 In isolation the three strands to the planning balance are insufficient in their own right to justify the dwelling in this location. When combined the planning balance moves to being supportive of the development. In summary the development would support the local economy, and when considered against the fall-back position which could in itself impact the character of the village would result in the compliance with the IPG. The principle of the development in this location is acceptable.

5.8 The dwelling would not harm local visual amenity and is acceptable in terms of policy DP30.

5.9 The dwelling would not erode the amenities of occupiers of adjacent property and is acceptable.

5.10 The dwelling would not raise any highway safety issues.

5.11 The development is liable to the Community Infrastructure Levy. The Agent has been advised of this and further details required in order to calculate the sum payable and issue a decision have yet to be submitted. Approval is recommended for this application subject to this.

5.12 The positioning of the dwelling over the foundations of the commenced dwelling would remove the option to complete the construction of the latter and would remove the need for a legal agreement or planning condition to prohibit its separate construction.

5.13 The applicant is in the process of supply an up-dated block plan and location plan to address the comments raised by the neighbour consultation. It should be highlighted that a planning condition restricting the type of vehicles to the site would be unreasonable and unenforceable and could not be attached to any permission granted.

## **6.0 RECOMMENDATION: GRANT**

6.1 That subject to any outstanding consultations the application be granted.

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings and details received by Hambleton District Council on 6 February 2015 as amended by the drawings and details received by Hambleton District Council on 8 May 2015 unless otherwise approved in writing by the Local Planning Authority.
3. The development hereby approved shall not be constructed other than of the materials detailed on the application form received by Hambleton District Council on 6 February 2015 unless otherwise agreed in writing by the Local Planning Authority.
4. The development shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved by the Local Planning Authority.

No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.

5. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order, for the time being in force relating to 'permitted development', no enlargement, improvement or other alteration shall be carried out to the dwelling or building nor shall any structure be erected within or on the boundary of the curtilage of the dwelling hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.

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

7. The development hereby approved shall not be commenced until details of the foul sewage and surface water disposal facilities have been submitted and approved in writing by the Local Planning Authority.

8. The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under condition 7 above.

9. No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved by the Local Planning Authority. A scheme for the remediation of any contamination shall be submitted and approved by the Local Planning Authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.

10. If unexploded ordnance (UXO) is found or suspected at any time during development all works shall cease and the Local Planning Authority shall be notified in writing immediately. No further works shall be undertaken or the development occupied until a risk assessment carried out by an unexploded ordnance (UXO) risk assessment specialist has been submitted to and approved in writing by the Local Planning Authority. Where risk mitigation is necessary a scheme for the mitigation of the UXO shall be submitted and approved by the Local Planning Authority before any further development occurs. The development shall not be occupied until the approved risk mitigation scheme has been implemented and a verification report and clearance certificate has been submitted to and approved in writing by the Local Planning Authority.

11. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority



12. No dwelling shall be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with condition 11 above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) CP1, CP16, CP17, DP1, DP30 and DP32.
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy DP30.
5. To ensure that the dwelling is not incrementally enlarged or the curtilage developed at a detriment to the visual amenity and character of the locality.
6. In the interest of satisfactory drainage and to avoid pollution of the water environment.
7. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
8. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
9. To assess and mitigate against the risks posed by contamination.
10. To assess and mitigate against the risks posed by unexploded ordnance.
11. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
12. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.

**Parish: Sessay**  
Ward: Sowerby & Topcliffe  
**4**

Committee Date: 28 May 2015  
Officer dealing: Mr A J Cunningham  
Target Date: 4 June 2015

**15/00553/OUT**

**Phased construction of new multi-use village hall, cricket pavilion and bowls club and new cricket pitch, multi-use games area, parking facilities & relocation of existing bowls lawn / demolition of existing village hall / outline planning for construction of 5 new homes**

**at Sessay Village Hall, Main Street, Sessay  
for Mrs Julia Oyston - Sessay Parish Council**

## **1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 This hybrid application seeks full planning consent for a replacement community facility, relocated bowling green, double multi use games area (MUGA), 3 batting nets, allotments, children's play area, cricket pitch, car parking area and access track. Outline consent is sought for five dwellings to the southern corner of the site. The existing village hall would be demolished to accommodate the development.
- 1.2 The new village hall and pavilion building would be located centrally within the site, about 145 metres from Main Street, with cricket pitches in front and to the rear. It was the subject of a design competition and has a long rectangular form, aligned north west / south east with the village hall at one end and the bowls club, cricket club changing rooms and plant and storage areas at the other end. It would measure approximately 97.2m x 15.4m, and would extend to a total height of approximately 4.7m.
- 1.3 The relocated bowling-green would be close to the proposed building and measure approximately 33.4m x 33.4m. The double MUGA would also be close, to the rear, and measure approximately 37m x 37m. The cricket pitches would be 123m in diameter. The access track from Main Street would have a width of 4.8m and would serve 55 car parking spaces, 4 disabled parking spaces, and 3 coach spaces.
- 1.4 Materials for the proposed pavilion would be either natural oak veneered panels or local red brick slip panels arranged in a herringbone pattern, along with glazing, below a roof of sedum or bitumen material with inset solar panels and oak veneer panelled soffits. The track and parking area would be formed in natural coloured bonded gravel and hardcore to the areas to the rear of the proposed pavilion.
- 1.5 The pavilion and all development to its north-east would be positioned on land which ascends to the north-east and which is currently in agricultural use. It is within Flood Zone 1 and two public rights of way pass across it.
- 1.6 The pavilion would accommodate a bar area, meeting room, kitchen, village hall, cricket changing rooms, bowls club area, plant room, machine store, toilets and a covered terrace area.
- 1.7 The five dwellings are proposed to partly fund the development and are shown to comprise a detached two-storey villa and a terrace of four two-storey houses. The group of dwellings would be set at right angles to Main Street, facing the front cricket pitch.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

2.1 13/00241/FUL - Single storey extension to village hall; Granted 10 April 2013.

### **3.0 NATIONAL AND LOCAL POLICY**

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Core Strategy Policy CP3 - Community assets  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Core Strategy Policy CP18 - Prudent use of natural resources  
Core Strategy Policy CP19 - Recreational facilities and amenity open space  
Core Strategy Policy CP20 - Design and crime reduction  
Core Strategy Policy CP21 - Safe response to natural and other forces  
Development Policies DP1 - Protecting amenity  
Development Policies DP2 - Securing developer contributions  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP5 - Community facilities  
Development Policies DP6 - Utilities and infrastructure  
Development Policies DP8 - Development Limits  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP10 - Form and character of settlements  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 - General design  
Development Policies DP33 - Landscaping  
Development Policies DP34 - Sustainable energy  
Development Policies DP37 - Open space, sport and recreation  
Development Policies DP43 - Flooding and floodplains  
Interim Guidance Note - adopted by Council on 7th April 2015  
National Planning Policy Framework  
National Planning Practice Guidance

### **4.0 CONSULTATIONS**

- 4.1 Sessay Parish Council - at its meeting on 6 March, Sessay and Hutton Sessay Parish Council endorsed the submission of this Planning Application by its agent Sutherland Hussey Harris Architects, Edinburgh, and has no further observations or comments to make, other than to seek your approval.
- 4.2 NYCC Highways - conditions are recommended regarding discharge of surface water; details of access, turning and parking; provision of approved access, turning and parking areas; precautions to prevent mud on the highway; a highway condition survey; and to regulate onsite parking, storage and construction traffic during development.
- 4.3 Ramblers Association - no objection; request that details of any change to the footpath system, its alignment, width, surface or enclosure should be the subject of further consultation.
- 4.4 Environmental Health Officer - no objection; recommends that the building is constructed with sufficient adjustable features such as blinds and shutters and screening to allow for the control of solar gain.

- 4.5 Police Architectural Liaison Officer – a condition is recommended regarding secured by design/crime prevention measures. Comments are made regarding: crime and disorder; the design and access statement; access and movement; the MUGA; the play area; defensible space; boundary protection; car parking; cycle storage; CCTV; lighting; landscaping; utility meters; intruder alarms; and secured by design principles.
- 4.7 Historic England (formerly English Heritage) - do not consider it is necessary to be notified.
- 4.8 Ministry of Defence - no objection.
- 4.9 Yorkshire Water - no response as at 14.05.15.
- 4.10 Senior Drainage Engineer - comments awaited.
- 4.11 Neighbours notified and site notice posted; expired 06.05.2015 - 4 responses received in summary mainly concerning:
- Not in keeping with the village;
  - Increased traffic;
  - Increased noise;
  - The existing village hall is not supported;
  - Lack of access from the car park to the rear of an adjacent property;
  - Impact on the character of the locality;
  - The longevity of the building design;
  - The viability of the proposed building; and
  - Out of scale with the village.

## **5.0 OBSERVATIONS**

- 5.1 The main planning issues to take into account when considering this hybrid application relate to (i) the principle of the community facilities and of the proposed dwellings in this location, including the visual amenity of the surrounding area; (ii) any impact on neighbour amenity; (iii) any highway safety issues that may arise; (iv) any impact on protected species; (v) drainage, water supply and flood risk; (vi) sustainable energy; and (vii) the required contribution of the development to the Community Infrastructure Levy.

### Principle

- 5.2 The site is outside the Development Limits of Sessay. Core policy CP4 seeks to direct development to the more sustainable locations within the District and therefore takes a restrictive stance on development outside defined Development Limits. However, the policy allows for six exceptions:
- i. It is necessary to meet the needs of farming, forestry, recreation, tourism and other enterprises with an essential requirement to locate in a smaller village or the countryside and will help to support a sustainable rural economy; or
  - ii. It is necessary to secure a significant improvement to the environment or the conservation of a feature of acknowledged importance; or
  - iii. It would provide affordable housing or community facilities which meet a local need, where that need cannot be met in a settlement within the hierarchy; or
  - iv. It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing; or

- v. It would make provision for renewable energy generation, of a scale and design appropriate to its location; or
- vi. It would support the social and economic regeneration of rural areas.

It is considered that the communal and recreational facilities within the application would accord with criteria iii and vi. Policy DP5 is clear in the support that it provides to community facilities where these constitute important contributions to the quality of local community life and the maintenance of sustainable communities. The proposed community facilities would enable the growth of the community groups that currently make use of the village hall and provide new village facilities to secure the sustainability of Sessay. The principle of the community facilities in this location is acceptable. Whilst not directly relevant to the determination of the application, it is noted that the proposal is brought forward by the Parish Council and following a design competition, so must be widely known about in the area.

- 5.3 It is understood that the five dwellings, which would also be positioned outside the Development Limits of Sessay, are intended to enable the community and recreational development in financial terms. However, it is considered appropriate to first assess them in their own right and only consider whether an exception would be desirable in view of their enabling role in the event that they are considered otherwise unacceptable.
- 5.4 The dwellings would only accord with policy CP4 (exception iii) if they were affordable housing. However, as of 7 April 2015 the Council adopted Interim Policy Guidance (IPG) to align the current LDF policies with the approach of the National Planning Policy Framework (NPPF) and thereby to support small scale development outside but adjacent to Development Limits where it complies with the following criteria:
1. Development should be located where it will support local services including services in a village nearby.
  2. Development must be small in scale, reflecting the existing built form and character of the village.
  3. Development must not have a detrimental impact on the natural, built and historic environment.
  4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
  5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
  6. Development must conform with all other relevant LDF policies.

Additionally, it will be important to consider the approach to rural development set out in the NPPF. Paragraph 55 of the NPPF states that development in one village may support facilities in another and only places an expectation that housing development will be resisted where it would result in isolated new dwellings in the countryside.

- 5.5 Sessay is defined as a Secondary Village and is therefore classed as a sustainable settlement and within the IPG small scale development adjacent to the main built form of the settlement "will be supported where it results in incremental and organic growth". This goes on to state that "Proposals which are small in scale and which provide a natural infill or extension to an existing settlement will be considered favourably where they also conform with other relevant LDF Policies". Sessay is characterised by linear development interspersed with small lane offshoots and the addition and extent of this residential development adjacent Main Street would need to reflect the established character. There are also 104 residential properties within the core settlement of Sessay and therefore the size of this residential development needs to be considered against this number when its scale is being assessed.

- 5.6 It is important to consider the likely impact of the proposed development with particular regard to criteria 2, 3 and 4 of the IPG. The proposed dwellings would be within an area of the village settlement which is characterised by the existing village hall and frontage parking. The following detailed advice within the IPG is considered to be relevant:

"Proposals will be assessed for their impact on the form and character of a settlement. Consideration should be given to the built form of a settlement, its historical evolution and its logical future growth and how the proposal relates to this."

"Any detrimental impact on the character, appearance and environmental quality of the surrounding area should be avoided and development should not compromise the open and rural character of the countryside."

- 5.7 As noted above, Sessay is characterised by linear development interspersed with small lane offshoots and the five dwellings would appear as a small offshoot and therefore would complement the existing character of the village and the built form currently on site. The majority of the site frontage would remain open, with public views onto the cricket pitch. The careful low level design of the pavilion would ensure its assimilation into the surrounding landscape. The proposal would still be within an area adjoining the historical built form which has characterised Sessay. The scheme would allow the maintenance of an area of green space which is formed by the front cricket pitch. As such it is considered that the development proposed, and the limited loss of openness, would appropriately respect the general built form of the village and would not result in isolated new dwellings in the countryside. As the residential element of the development is considered acceptable in its own right, it is not considered necessary to assess any case for it as enabling development.

#### Neighbour amenity

- 5.8 The development of the community facilities would not have a harmful impact on neighbour amenity although it is acknowledged that activity, including traffic generation, would peak according to social and sporting calendars and therefore may occur during evenings and at weekends. However, it is considered that the infrequency of such events and the separation between existing dwellings and the village hall and clubhouse would limit the impact to within acceptable tolerances. The plot size for the dwellings and their indicative orientation would not be likely to harm neighbour amenity. However this is a matter to be fully assessed at the reserved matters stage.

#### Highways

- 5.9 No objections have been raised by the Highway Authority regarding the intensified use of the existing site access. In view of this it is not considered that the proposed development would adversely impact highway safety.

#### Protected species

- 5.10 A survey of the risks to any protected species in the structures proposed for demolition shall be requested by condition, as will be the implementation of any necessary mitigation measures.

#### Drainage, water supply and flood risk

- 5.11 Comments are awaited from the Council's Senior Drainage Engineer and Yorkshire Water. Subject to these comments not raising adverse issues it is considered that the

development could be accommodated within the existing infrastructure. In principle therefore this proposal satisfactorily complies with paragraph 55 of the NPPF and is consistent with the approach set out in the IPG.

#### Sustainable Energy

- 5.12 The development needs to minimise energy demand, improve energy efficiency and promote on-site energy generation to comply with policy DP34 of the LDF. A pre-commencement planning condition could be attached to any permission granted to assess this and require its implementation.

#### Developer contributions

- 5.13 The community and recreational elements of the development are not liable for the Community Infrastructure Levy. However, the five dwellings are not proposed to be affordable housing and therefore are liable.

#### Other issues raised by third parties

- 5.14 In response to the comments of the Ramblers Association, a pre-commencement condition would be attached to any permission granted to assess the design of the diverted public rights of way, and to ensure their diversion prior to development commencing. Private access to adjacent property is a private matter for the applicant to address and is not a material planning consideration. The longevity of the building design is primarily an issue to be considered under the Building Regulations but could be aided by requiring high quality materials by planning condition. The viability of the village hall is a matter for the applicant and not the Local Planning Authority to address and does not form a material planning consideration in the determination of this application.

### **6.0 RECOMMENDATION**

- 6.1 That subject to any outstanding consultations the application is **GRANTED** subject to the following conditions:
1. The development relating to the community facilities hereby permitted shall be begun within three years of the date of this permission.
  2. Application for the approval of all of the reserved matters relating to the five dwellings hereby approved shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: (i) Five years from the date of this permission; (ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
  3. The residential development shall not be commenced until details of the following reserved matters have been submitted to and approved by the Local Planning Authority: (a) the siting, design and external appearance of each building, including a schedule of external materials to be used; and (c) the landscaping of the site.
  4. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings and details received by Hambleton District Council on 17 March 2015 and 20 March 2015 unless otherwise approved in writing by the Local Planning Authority.

5. Prior to development commencing, details and samples of the materials to be used in the construction of the external surfaces of that part of the development shall be made available on the application site for inspection and the Local Planning Authority shall be advised that the materials are on site and the materials shall be approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method. Notwithstanding the submitted details, the roof of the proposed sports pavilion and village hall shall be completed in Sedum or other similar green roofing system.

(Note: for the purposes of this and subsequent conditions, the development is considered to be in two parts; the community facilities being one and the five dwellings being the other.)

6. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for that part of the development have been submitted to and approved in writing by the Local Planning Authority.
7. No dwelling shall be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with condition 6 above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.
8. The site shall be developed with separate systems of drainage for foul and surface water.
9. No part of the development shall not be commenced until a detailed landscaping scheme for that part, indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved by the Local Planning Authority. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.
10. Prior to any part of the development commencing details that show how 'Secured by Design' principles have been incorporated into that part of the scheme shall be submitted for the written approval of the Local Planning Authority and once approved the development shall be implemented in accordance with the approved 'Secured by Design' details prior to occupation or use of any part of the development hereby approved.
11. No part of the development hereby approved shall ~~not~~ be commenced until details of the foul sewage and surface water disposal facilities for that part have been submitted and approved in writing by the Local Planning Authority.
12. No part of the development hereby approved shall not be brought into use until the foul sewage and surface water disposal facilities for that part have been constructed and brought into use in accordance with the details approved under condition 11 above.
13. No external lighting shall be installed other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.



14. Prior to development commencing the footpaths crossing the site shall be formally diverted and the design of the footpath surfacing and enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved details shall be implemented and retained.
15. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.
16. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted in any part of the development until full details of the following details in respect of that part of development have been submitted to and approved in writing by the Local Planning Authority: (i) vehicular accesses; (ii) vehicular turning arrangements; and (iii) vehicle parking.
17. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 17 relating to that part of the development are available for use unless otherwise approved in writing by the Local Planning Authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
18. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal
19. Unless otherwise approved in writing by the Local Planning Authority, there shall be no HCVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority. Details shall be submitted to the Local Planning Authority to ensure that any damage that is caused by the vehicles associated with the project is rectified at the expense of the developer within a reasonable timescale prescribed by the Highway Authority. Once the details are agreed they shall be adhered to during the construction phase of the development.
20. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of: (a) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public

highway; and (b) on-site materials storage area capable of accommodating all materials required for the operation of the site. The approved areas shall be kept available for their intended use at all times that construction works are in operation.

21. Prior to development commencing a full protected species survey of the buildings proposed for demolition shall be submitted to and approved by the Local Planning Authority. Thereafter any mitigation measures shall be implemented.

The reasons for the above conditions are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.
4. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies CP1, CP16, CP17, DP1, DP30 and DP32.
5. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
6. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
7. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
8. In the interest of satisfactory drainage and to avoid pollution of the water environment.
9. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy DP30.
10. In the interest of community safety, to reduce the fear of crime and to prevent, crime and disorder in accordance with the provisions of policy CP20 of the Hambleton Local Development Framework.
11. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
12. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43

13. In order that the Local Planning Authority can consider the impact of the proposed lighting scheme and avoid environmental pollution in accordance with Local Development Framework Policies CP1 and DP1.
14. To ensure the on-going free-flow and enjoyment of the local public right of way system.
15. In the interests of highway safety.
16. To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.
17. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
18. To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
19. In the interests of highway safety and the general amenity of the area.
20. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
21. To minimise the risk to protected species.

**15/00145/MRC**

**Variation of conditions 34 and 35 of application reference number: 10/02373/OUT- relating to highway improvements and widening of mini roundabout. at land east of Topcliffe Road and south of Gravel Hole Lane, Topcliffe Road, Sowerby for Mulberry Homes (Yorkshire) Limited/Broadacres Services Ltd.**

**1.0 SITE DESCRIPTION AND PROPOSAL**

1.1 The application relates to conditions that were imposed on the approval for the development known as Sowerby Gateway. The conditions relate to the off-site highway works that are to be undertaken within the Market Place of Thirsk, on Topcliffe Road, Sowerby and at the junction of the B1448 and the A168 dual carriageway.

1.2 Conditions 34 & 35 relate to highway improvement works associated with the development as follows:

34. No further development shall take place within the application site unless, within 6 months of the occupation of the first dwelling on the site (or 1,500 sqm of commercial floor space has been occupied, whichever occurs first), the highway improvement scheme on the A168/B1448 junction, to allow 'northbound on' and 'southbound off' movements is constructed, and brought into use.

Reason: To ensure the continued safe operation of the A168 Trunk Road in the area.

35. No further development shall take place within the application site unless, within 6 months of the occupation of the first dwelling on the site (or 1,500 sqm of commercial floor space has been occupied, whichever occurs first), the highway improvement works listed below have been completed and made available for use. The required highway improvements shall include:

(a) Improvement works to B1448 Topcliffe Road including:

- (i) access roundabouts
- (ii) drainage
- (iii) lighting
- (iv) footways
- (v) pedestrian islands
- (vi) toucan crossing
- (vii) zebra crossing
- (viii) bus infrastructure
- (ix) parking bays adjacent Melbourne Place
- (x) 'Keep Clear' road markings adjacent Sowerby Road
- (xi) Provision of missing footpath link on western side of road railway bridge and 'Thorpefield'

(b) Widening at the Topcliffe Road/Station Road/Westgate mini roundabout to provide two dedicated approach lanes from Topcliffe Road and Westgate

- (c) Widening at the Kirkgate / A61 junction to provide two dedicated approach lanes from Kirkgate.

The works shall be undertaken in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority and following the completion of an independent Stage 2 Safety Audit which has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.

Reason: In the interests of road safety to provide for a safe and adequate means of vehicular access to and from the site for the purposes of undertaking the development hereby permitted and to secure appropriate reinstatement upon completion.

- 1.3 The proposal seeks to vary the trigger for the completion of the off-site highway works. The following revised version of the condition is provided in the application form:

"No more than 207 dwellings (C3), 90 bed sheltered accommodation (C2), 1486 sq. m net retail sales area for food store (A1) and 6,968 sq. m of employment floor space (B1c, B2 and B8) inclusive or a combination of these uses not exceeding the vehicle trip generation as set out in table 1.4 of Optima Highways Technical Note dated 23rd January 2015 until the highway improvement scheme on the A168/B1448 junction to allow "northbound on" and "southbound off" movements is constructed and brought into use."

- 1.4 The applicant's version of the revised condition 34 did not specify whether the dwellings were to be commenced, built or occupied. Clarification has been provided that the intention was for the development not to be occupied until the works have been completed.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 10/02373/OUT - Outline application for a mixed use development comprising of 925 dwellings (C3), employment (B1, B2 & B8) , neighbourhood centre, comprising: shops (A1), financial and professional services (A2), restaurant(s) and cafe(s) (A3), drinking establishment(s) (A4), hot food takeaway(s) (A5), hotel (C1), extra-care facility (C2) and medical centre and other non-residential institutions (D1), primary school (D1), community uses including recreation playing pitches and allotments, car parking and means of access (all matters reserved apart from means of access). Phase I residential 107 dwellings & Phase I commercial (B1c) all details to be considered; Granted 21 August 2012 subject to conditions and a section 106 agreement.
- 2.2 13/02427/REM - Reserved matters application for the provision of 90 unit extra care facility and associated retail units, public realm works and highways works; Approved 17 March 2014.
- 2.3 14/01945/REM - Reserved matters application for appearance, landscaping, layout and scale of the proposed Sports Village consisting of two main buildings, sports facilities, access road, ancillary buildings, car parking and footpath/cycle links; Approved 26 March 2015.
- 2.4 15/00005/CAT3 - Breach of planning condition relating to the timescale for the completion of the off-site highway works. Planning Committee resolved on 13 November 2014 to press the developers to submit an early application for a variation

of the highway conditions 34 and 35 for the Sowerby Gateway development; and the need for enforcement action be deferred until the outcome of the application.

- 2.5 15/00146/MRC - Variation of Condition 9 of Application 11/01435/FUL - improved junction; reported elsewhere on this agenda.
- 2.6 15/00274/REM - Reserved Matters application for food store and associated landscaping and car parking; reported elsewhere on this agenda.

### **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Allocations Document Policy TM2A - South West Thirsk Area, Westbourne Farm, Sowerby - adopted 21 December 2010  
Allocations Document Policy TM2B - South West Thirsk Area, Cocked Hat Farm, Sowerby - adopted 21 December 2010  
Allocations Document Policy TM2C - South West Thirsk Area, West of Topcliffe Road, Sowerby - adopted 21 December 2010  
Allocations Document Policy TM2D - South West Thirsk Area - East of Topcliffe Road, Sowerby - adopted 21 December 2010  
Allocations Document Policy TM2E - South West Thirsk Area, Gravel Hole Lane, Sowerby - adopted 21 December 2010  
National Planning Policy Framework  
National Planning Practice Guidance

### **4.0 CONSULTATIONS**

- 4.1 Sowerby Parish Council - Wish to see refused because planning permission was granted in the first place based on the infrastructure being in place as per Conditions 9, 34 and 35. Councillors would wish to see compliance at the earliest opportunity.
- 4.2 NYCC Highways – Requested and agreed a revised methodology for undertaking additional assessments which will be summarised in a revised technical note. Then will be able to undertake a review and provide a suitable response.
- 4.3 Highways Agency – Offers no objection
- 4.4 Network Rail - has no observations to make.
- 4.5 Publicity, site notices, press notices and neighbour notifications – One response received objecting to the application.

### **5.0 OBSERVATIONS**

- 5.1 The main issues in the determination of this application is whether the planning conditions that have the aim of securing improvements to the highway network are still required and whether the change to the trigger point can be made whilst satisfying the reasons for the conditions and meeting the 6 tests for planning conditions laid down by Government in the NPPF paragraph 206, namely:

1. necessary;
2. relevant to planning and;

3. to the development to be permitted;
  4. enforceable;
  5. precise and;
  6. reasonable in all other respects.
- 5.2 The need for the improvements and stated reasons for the conditions are matters of safety and capacity of the highway network. There is no reason to conclude that the need for the works to increase highway capacity and secure safety improvements have changed significantly since the determination of the application 2012.
- 5.3 However, the trigger point in the conditions was not based on evidence from the traffic modelling work but sought to achieve the early delivery of the off-site highway works, as noted in the report to the November 2014 meeting of Planning Committee:
- “It is relevant to note that the trigger point referred to in the conditions did not come from the findings of the modelling work or the Traffic Assessment submitted with the application. Rather it arose from assurances given by the original developer about how soon the junction could be delivered and a desire from Members to achieve an early delivery in response to concerns from Sowerby residents. The specific highway improvements, however, were derived from the Traffic Assessment and modelling.”
- 5.4 The application is supported by modelling work that provides evidence for alternative trigger points that shows the level of growth of traffic flows can be accommodated within the highway network.
- 5.5 The level of queueing at junctions is shown to increase overtime though the improvements to the network within Thirsk town centre reduce the severity of the increases. The conclusions reached by the applicants’ consultant highway engineer is that the development will not exceed the capacity of the highway network in 2015 or 2016 and that in the “design year” of 2017 the traffic is still being accommodated within the highway network by the time of the completion of the junction improvements of the B1448 and the A168.
- 5.6 The detailed advice of North Yorkshire County Council as Highway Authority is essential in order to determine whether the submission modelling work has been appropriate and whether the proposed triggers are acceptable in terms of both safety and the capacity of the highway network. Equally, it was noted in the November 2014 report to Planning Committee that “the Council could be on weak ground to take enforcement action until North Yorkshire County Council has come to a view on the modelling work”.
- 5.7 On the basis of the data supplied in the traffic modelling it is reasonable to conclude that the works required by the condition continue to meet the 6 tests. However, it remains to be considered whether those works could be delivered at a later stage in the development as requested by the applicants.
- 5.8 The revisions to the two conditions are proposed as follows:
- 5.9 Approved version of condition 34 as set out at paragraph 1.2 above be replaced by

No more than the following quantum of development shall be occupied or brought in to use unless the highway improvements scheme at the junction of the A168/B1448 to allow 'northbound on' and 'southbound off' movements is constructed and brought in to use

207 dwellings

90 bed extra-care apartments  
1,486 sq. m net retail sales area foodstore  
6,968 sq. m of employment floor space

These thresholds are subject to further discussion with the applicants and the Highway Authority and may change. Any change will be reported to the meeting.

- 5.10 The approved version of condition 35 as set out at paragraph 1.2 above be replaced by

The following off-site highway works shall be undertaken in accordance with the details previously submitted to and approved in writing by the Local Planning Authority and following the completion of an independent Stage 2 Safety Audit which has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations and shall be completed by 31st August 2015.

- (a) Improvement works to B1448 Topcliffe Road including:
  - (i) access roundabouts
  - (ii) drainage
  - (iii) lighting
  - (iv) footways
  - (v) pedestrian islands
  - (vi) toucan crossing
  - (vii) zebra crossing
  - (viii) bus infrastructure
  - (ix) parking bays adjacent Melbourne Place
  - (x) 'Keep Clear' road markings adjacent Sowerby Road
  - (xi) Provision of missing footpath link on western side of road railway bridge and 'Thorpefield'
- (b) Widening at the Topcliffe Road/Station Road/Westgate mini roundabout to provide two dedicated approach lanes from Topcliffe Road and Westgate
- (c) Widening at the Kirkgate / A61 junction to provide two dedicated approach lanes from Kirkgate.

- 5.11 Approval of an application to vary a condition of an earlier approval results in a new decision being made, so a new decision notice describing the whole development and listing all conditions would be required. In the event that the decision on this application is to approve the development the description of the development would be the full title as set out in the 2010 application. All the conditions would be required to be restated subject to any amendments that are necessary. A deed of variation would be required to the previously completed Section 106 Agreement prior to the issue of an approval in order to ensure that the provisions of the Agreement (relating to the provision of affordable housing, open space provision, community land, sustainable travel initiatives, public art and other matters) continue to bind the permission.

- 5.12 The Community Infrastructure Levy (CIL) applies to the grant of new planning permissions except in the case of applications such as this made under Section 73 of the Planning Act where the provisions of Regulation 128a of the CIL apply. The Planning Guidance states that:



“There may be transitional cases, where the original planning permission was granted before a levy charge came into force in the area, and a section 73 permission is granted after the charge comes into force. In these circumstances, regulation 128A (as amended by the 2014 Regulations) provides for the section 73 consent to only trigger levy liability for any additional liability it introduces to the development. The Government’s intention is that the provisions set out in regulation 128A should apply to all subsequent section 73 permissions granted in respect of such a development where these transitional circumstances have arisen.”

As the proposed variation in the conditions would not alter the quantum of development, there is no additional liability to be dealt with through CIL.

- 5.13 Regulation 128a enables the continued use of Section 106 Agreements where the application made is to vary a condition of a permission that was previously the subject of a Section 106 Agreement. A draft of the Deed of Variation has been submitted to the Council.

## **6.0 RECOMMENDATION**

- 6.1 That subject to any outstanding consultations and the completion of a Deed of Variation to the Section 106 Agreement the application is **GRANTED** subject to the following conditions.

(Note: The thresholds set out in recommended condition 34 are subject to further discussion with the applicants and the Highway Authority and may change. Any change will be reported to the meeting.)

### **Submission of Reserved Matters**

1. An application for the approval of all of the reserved matters for all phases of the development shall be made to the Local Planning Authority not later than 21 August 2025 and the development hereby approved shall be begun on or before whichever is the later of the following dates: (i) 21 August 2027; (ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

**Reason:** To ensure compliance with Section 92 of the Town and Country Planning Act 1990

### **Reserved Matters to be submitted**

2. No development shall commencement on any part of the development other than the formation of access roads and the works specified in phase 1 (107 dwellings and 4,412 sq. m of commercial buildings) until the following reserved matters have been submitted for approval by the Local Planning Authority: (1) Appearance (ii) Landscaping (iii) Layout & (iv) Scale

**Reason:** To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.

### **Commencement of Phase 1**

3. The development of Phase 1 of the scheme hereby permitted shall be begun within three years of the date of this permission.

**Reason:** To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

#### **Approved Plans - Outline**

4. The development of the outline planning permission hereby granted shall not be undertaken other than in complete accordance with the drawing detailed below unless otherwise agreed in writing by the Local Planning Authority:

s2251/08 – 20A received on 20<sup>th</sup> September 2011 – Site Boundary  
s2251/08 – 21B received on 20<sup>th</sup> September 2011 – Coordinated Masterplan  
s2251/08 – 22B received on 20<sup>th</sup> September 2011 – Site Movements  
s2251/08 – 23A received on 20<sup>th</sup> September 2011 – Phasing & Density

**Reason:** In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies noted above.

#### **Approved Plans – Phase 1**

5. The development of Phase 1 of the planning permission hereby granted shall not be undertaken other than in complete accordance with the drawing detailed below unless otherwise agreed in writing by the Local Planning Authority:

##### Phase 1 Employment

11207-001 Rev.F received on 30<sup>th</sup> September 2010 - Site Layout  
11207-002 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
11207-004 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
11207-005 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
11207-006 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
11207-007 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
11207-008 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
11207-009 Rev.A received on 30<sup>th</sup> September 2010 - Elevations

##### Phase 1 Housing

3424-10Q received on 7<sup>th</sup> October 2011 - Site Layout  
SG/LD01 received on 30<sup>th</sup> September 2010 - Boundary Treatments  
3424/PD/20 Rev.A received on 30<sup>th</sup> September 2010  
3424/PD/21 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/22 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/23 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/24 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/26 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/27 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/28 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/29 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/30 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/31 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/32 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/33 Rev.A received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/34 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/35 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/36 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/37 received on 30<sup>th</sup> September 2010 - Elevations

3424/PD/38 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/39 received on 30<sup>th</sup> September 2010 - Elevations  
3424/PD/45 received on 30<sup>th</sup> September 2010 - Garages

**Reason:** In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies noted above.

### **Materials**

6. Prior to development of each phase of this development commencing, details and samples of the materials to be used in the construction of the external surfaces of the development of that phase shall be made available on the application site for inspection and the Local Planning Authority shall be advised that the materials are on site and the materials shall be approved in writing by the Local Planning Authority. The development of each phase shall be constructed of the approved materials for that phase in accordance with the approved method.

**Reason:** To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.

### **Boundary Treatment - Details**

7. The development of each phase of the development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of that phase of the development have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.

### **Boundary Treatment - Construction**

8. No dwelling or other building shall be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with 7 condition above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.

**Reason:** To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.

### **Landscaping Masterplan**

9. No part of the development shall commence until a landscaping masterplan indicating the location and extent of all new structural trees and shrub planting, has been submitted to and approved by the Local Planning Authority. The masterplan shall include (but is not limited to):
- (i) The type of landscape and habitat creation (structure planting, hedgerows and dry and damp species rich grasslands).
  - (ii) The distribution of those landscapes and habitats (peripheral, open space related and road and footpath/cycleway network related).
  - (iii) The extent of the landscapes and habitats (widths, lengths and areas).
  - (iv) The species mixes and structure for each landscape and habitat creation type.

- (v) The sizes, heights and densities of plant species to be used for the different landscape and habitat types.
- (vi) The management requirements (establishments and long term management).

**Reason:** In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy CP1, CP17, DP32 and DP33.

### **Landscape Habitat Creation**

10. No phase of the development shall be commenced until the details of the landscape habitat creation have been submitted to and approved in writing by the Local Planning Authority. Such details shall include species, densities, heights and specifications, proportions and detailed locations for each phase of development. The details shall be in accordance with the masterplan previously approved unless otherwise approved and agreed in writing by the Local Planning Authority. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscape habitat creation scheme, unless the approved scheme has been completed. Any trees or plants which, within a period of five years of planting, die or are removed, or become seriously damaged or diseased, shall be replaced with others of a similar size, species and specification.

**Reason:** In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy CP1, CP17, DP32 and DP33.

### **Levels**

11. No phase of the development shall commence unless detailed cross sections showing the existing ground levels in relation to the proposed ground and finished floor levels for that phase of the development have been submitted to and approved in writing by the Local Planning Authority. The levels shall relate to a fixed Ordnance Datum and the levels for the main roads served by junctions on to Topcliffe Road. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

**Reason:** To ensure that the development is appropriate in terms of amenity and meeting sustainability objectives in accordance with Local Development Framework Policies CP1 and DP1.

### **Working Hours**

12. No building works including excavation, breaking up of existing concrete or tarmac areas, demolition works, piling operations, external construction works in general shall be carried within 100 metres of the boundary of the site with Coked Hat Park except between 0730 hours and 1800 hours Monday to Friday, 0800 hours to 1300 hours Saturday and there shall be no such work on Sunday or on any public holidays unless by prior written consent of the Local Planning Authority.

**Reason:** In order to protect the amenity of neighbouring occupiers in accordance with the Local Development Framework Policies CP1 and DP1.

### **Noise Mitigation Scheme**

13. Prior to the commencement of development of each phase of the development, a noise mitigation scheme for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures in the approved

noise mitigation scheme shall be implemented at all times until the completion of the phase unless varied by alternative details which have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order to protect the amenity of neighbouring occupiers in accordance with the Local Development Framework Policies CP1 and DP1.

#### **Vibration Monitoring Scheme**

14. Prior to the commencement of development of each phase of the development, a scheme of vibration monitoring for that phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures in the approved vibration monitoring scheme shall be implemented at all times until the completion of the phase unless varied by alternative details have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order to protect the amenity of neighbouring occupiers in accordance with the Local Development Framework Policies CP1 and DP1.

#### **Noise Control Scheme**

15. Prior to the commencement of development of each phase of the development, a scheme for the control of noise from ventilation, air extraction, heat pumps and heat exchanger units and other similar devices for that phase of the development (where such devices are to be installed) shall be submitted to and approved in writing by the Local Planning Authority. The measures in the approved scheme shall be implemented at all times and devices shall be maintained in accordance with the manufacturer's specification.

**Reason:** In order to protect the amenity of neighbouring occupiers in accordance with the Local Development Framework Policies CP1 and DP1.

#### **Land Contamination**

16. No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved by the Local Planning Authority. A scheme for the remediation of any contamination shall be submitted and approved by the Local Planning Authority before any development occurs. No part of the development shall be occupied until the approved remediation scheme has been implemented and a verification report detailing all works has been carried out has been submitted to the Local Planning Authority in respect of that phase of the development within which the land or building, which is to be occupied, lies.

**Reason:** In order to take proper account of the risks to the health and safety of the local population, builders and the environment and address these risks and in accordance with the Hambleton Local Development Framework CP21.

#### **Foul & Surface Water Drainage**

17. No development of any phase of the development hereby approved shall be commenced until details of the foul sewage and surface water disposal facilities in respect of that phase have been submitted and approved in writing by the Local Planning Authority.

**Reason:** In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43

### **Foul & Surface Water Drainage Implementation**

18. No use of the development shall commence until the foul sewage and surface water disposal facilities have been constructed and brought into use in respect of that phase of the development in accordance with the details approved under condition 17 above.

**Reason:** In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43

### **External Lighting Scheme**

19. No external lighting shall be installed either during construction or operational stages of any of the development, except in respect of the occupation of dwellings, other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.

**Reason:** In order that the Local Planning Authority can consider the impact of the proposed lighting scheme and avoid environmental pollution in accordance with Local Development Framework Policies CP1 and DP1.

### **Railway Undertaker's Assets**

20. Prior to the commencement of development of each relevant phase of the development, a scheme to protect the railway undertaker's assets from vibration, excavations, earthworks, the collapse or failure of plant and equipment and surface water discharge both during and after the construction of each phase shall be submitted to and approved in writing by the Local Planning Authority. The measures contained within the approved scheme shall be implemented at all times until the completion of the phase unless varied by alternative details submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe operation of the railway.

### **Archaeological Works**

21. No development shall take place until the developer has secured a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in respect of the relevant phase of development.

**Reason:** The site is of archaeological importance and as such warrants the recording of any relevant materials found at the site in accordance with the Local Development Framework Policies CP16 and DP29.

### **Energy Saving Measures & Sustainable Construction Techniques**

22. The development shall incorporate the energy saving measures and sustainable construction techniques as set out in the Energy Report or alternative measures that may, following submission to the Local Planning Authority, be approved for any building or use. The measures shall be implemented and maintained in accordance with the approved details.

**Reason:** In accordance with the objective of sustainable construction and the Local Development Framework Policies CP18 and DP34.

### **Control of Dust and Emissions from Construction**

23. Prior to the commencement of development, a scheme for the control of dust and other emissions from construction shall be submitted to and approved in writing by the Local Planning Authority. The measures in the approved scheme shall be implemented at all times until the completion of the phase unless varied by alternative details which have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In accordance with the objectives of sustainable construction and environmental management and the Local Development Framework Policies CP1, CP17, DP1 and DP32.

### **Secured By Design**

24. Prior to the development commencing details that show how 'Secured by Design' principles have been incorporated into the scheme shall be submitted for the written approval of the Local Planning Authority for that phase of the development and once approved the development shall be implemented in accordance with the approved 'Secured by Design' details prior to occupation or use of any part of the phase of the development hereby approved.

**Reason:** In the interest of community safety, to reduce the fear of crime and to prevent, crime and disorder in accordance with the provisions of Section 17 of the Crime and Disorder Act 1998

### **Ecological Mitigation**

25. Details of ecological mitigation included within the landscape and habitat creation masterplan for each phase of work shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development of that phase. The mitigation measures shall be undertaken in accordance with the approved scheme unless alternative details are submitted to and approved in writing by the Local Planning Authority.

**Reason:** In accordance with the objectives of mitigating impacts on ecological interests and enhancing bio-diversity and Local Development Framework Policies CP16 and DP31.

### **Wintering Birds Survey**

26. No development shall commence on any phase other than Phase 1 unless a wintering bird survey has been undertaken, report prepared and any mitigation measures required have been included in the habitat creation and management masterplan or other mitigation scheme. The mitigation measures shall be undertaken in accordance with the approved scheme unless varied by alternative details that have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In accordance with the objectives of mitigating impacts on ecological interests and enhancing bio-diversity and Local Development Framework Policies CP16 and DP31.

### **Bat Surveys**

27. The phase (or phases) of development which includes the farm house and its associated outbuildings shall not commence until all the buildings and outbuildings are reassessed for the presence of bats. If after this initial assessment further emergence and activity surveys are deemed necessary the phase (or phases) of development shall not take place until these further surveys have taken place, reports prepared and any mitigation measures required have been included in the habitat creation and management masterplan or other mitigation scheme. The mitigation measures shall be undertaken in accordance with the approved scheme unless alternative details are submitted to and approved in writing by the Local Planning Authority.

**Reason:** In accordance with the objectives of mitigating impacts on ecological interests and enhancing bio-diversity and Local Development Framework Policies CP16 and DP31.

#### **Habitat Creation and Management Plan**

28. No development shall commence until Habitat Creation and Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall thereafter be implemented in accordance with the approved details unless varied by approval of the Local Planning Authority.

**Reason:** In accordance with the objectives of mitigating impacts on ecological interests and enhancing bio-diversity and Local Development Framework Policies CP16 and DP31.

#### **Highway Engineering Drawings**

29. Unless otherwise approved in writing by the Local Planning Authority, and in relation to Phase 1 and subsequent Phases thereafter, there shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site relating to that Phase under consideration, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:

- (1) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
  - (a) the proposed highway layout including the highway boundary
  - (b) dimensions of any carriageway, cycleway, footway, and verges
  - (c) visibility splays
  - (d) the proposed buildings and site layout, including levels
  - (e) accesses and driveways
  - (f) drainage and sewerage system
  - (g) lining and signing
  - (h) traffic calming measures
  - (i) all types of surfacing (including tactiles), kerbing and edging
  - (k) details of all measures to ensure the phasing of the works does not compromise compliance with highway design standards.
- (2) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
  - (a) the existing ground level
  - (b) the proposed road channel and centre line levels
  - (c) full details of surface water drainage proposals.
- (3) Full highway construction details including:



- (a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
  - (b) when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
  - (c) kerb and edging construction details
  - (d) typical drainage construction details.
- (4) Details of the method and means of surface water disposal.
- (5) Details of all proposed street lighting.
- (6) Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
- (7) Full working drawings for any structures which affect or form part of the highway network.
- (8) A programme for completing the works.

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

**Reason:** To secure an appropriate highway construction to an adoptable standard, in the interests of highway safety and the amenity and convenience of highway users.

**Construction of Carriageway, Footway/Footpath & Street Lighting**

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

**Reason:** To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

**No Movement of Vehicles Prior to Construction of the Carriageway**

31. In relation to each phase of the development there shall be no movement by construction or other vehicles between the highway and any part of the site in that phase (except for the purposes of constructing the initial site access) until that part of the access extending 20 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details and the published Specification of the Local Highway Authority. All works shall accord with the approved details unless otherwise approved in writing by the Local Planning Authority. Any damage during use of the access until the completion of all the permanent works shall be repaired immediately.

**Reason:** In the interests of highway safety.

**Visibility Splays – Initial Site Access**

32. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access until splays are provided giving clear visibility of 90 metres from the residential priority junction for phase 1 measured along both channel lines of Topcliffe Road from a point measured 2.4 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

**Reason:** In the interests of road safety to provide for drivers of vehicles using the access road to the site and the public highway with a standard of inter-visibility commensurate with the vehicular traffic flows and road conditions.

#### **Visibility Splays – Each Phase**

33. No part of any phase of the development to which this permission relates shall be brought into use until visibility splays relating to that phase are provided giving clear visibility of 43 metres measured along both channel lines of the access road from a point measured 2.4 metres down the centre line of the adjacent side road, to which the phase relates. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

**Reason:** In the interests of road safety to provide for drivers of vehicles using the access road to the site and the public highway with a standard of inter-visibility commensurate with the vehicular traffic flows and road conditions.

#### **Highway Improvement Works**

34. No more than the following quantum of development shall be occupied or brought in to use unless the highway improvements scheme at the junction of the A168/B1448 to allow 'northbound on' and 'southbound off' movements is constructed and brought in to use.

207 dwellings  
90 bed extra-care apartments  
1,486 sq. m net retail sales area foodstore  
6,968 sq. m of employment floor space

**Reason:** To ensure the continued safe operation of the A168 Trunk Road in the area.

#### **Highway Improvement Works 2**

35. The following off-site highway works shall be undertaken in accordance with the details previously submitted to and approved in writing by the Local Planning Authority and following the completion of an independent Stage 2 Safety Audit which has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations and shall be completed by 31st August 2015.

(a) Improvement works to B1448 Topcliffe Road including:

- (i) access roundabouts
- (ii) drainage
- (iii) lighting
- (iv) footways

- v) pedestrian islands
  - (vi) toucan crossing
  - (vii) zebra crossing
  - (viii) bus infrastructure
  - (ix) parking bays adjacent Melbourne Place
  - (x) 'Keep Clear' road markings adjacent Sowerby Road
  - (xi) Provision of missing footpath link on western side of road railway bridge and 'Thorpefield'
- (b) Widening at the Topcliffe Road/Station Road/Westgate mini roundabout to provide two dedicated approach lanes from Topcliffe Road and Westgate
- (c) Widening at the Kirkgate / A61 junction to provide two dedicated approach lanes from Kirkgate.

### **Construction Phase Management Plan**

36. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until a Construction Phase Management Plan in association with each phase of the development has been submitted and approved in writing by the Local Planning. The measures shall include but not be limited to:
- a. Details of the routes to be used by HCV construction traffic.
  - b. Traffic Management Plan

Thereafter the development shall be undertaken in accordance with the details approved and any revisions that shall be approved to the details.

**Reason:** To ensure appropriate on-site vehicle parking facilities with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development.

### **Submission of Highway Construction Details**

37. In relation to each phase of development, and unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or buildings or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
- (i) tactile paving
  - (ii) vehicular, cycle, and pedestrian accesses
  - (iii) vehicular and cycle parking
  - (iv) vehicular turning arrangements
  - (iv) manoeuvring arrangements
  - (v) loading and unloading arrangements

Thereafter the development shall be undertaken in accordance with the approved details.

**Reason:** To ensure appropriate on-site vehicle parking facilities with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development.

### **Phase 1 Employment – Vehicle Access, Parking, Manoeuvring & Turning**

38. No part of the Phase 1 Employment development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved, under the condition above, have been constructed in accordance with the submitted drawing (Reference 11207-001 Rev G). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

**Reason:** To ensure appropriate on-site vehicle parking facilities with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development.

#### **Parking for Dwellings**

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

**Reason:** To provide for appropriate on-site vehicle parking facilities with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development.

#### **Prevention of the deposit of mud, grit & dirt on the highway**

40. In relation to each phase of the development, there shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in relation to each phase. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.

**Reason:** To provide for appropriate on-site vehicle parking facilities with associated access and manoeuvring areas, in the interests of highway safety and the general amenity of the development.

#### **Construction of doors and windows**

41. All doors and windows on elevations of the buildings adjacent to the existing and proposed highways shall be constructed and installed such that from the level of the adjacent highway for a height of 2.4 metres they do not open over the public highway and above 2.4 metres no part of an open door or window shall come within 0.5 metres of the carriageway. Any future replacement doors and windows shall also comply with this requirement.

**Reason:** To provide for adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the site and visitors to it, in the interest of safety and the general amenity of the development.

#### **Site Compound & Parking**

42. In relation to each phase of development and unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:
- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway.
  - (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

**Reason:** To avoid congestion of the roads adjoining the development site and to avoid obstruction of road, verge and footpath areas in the interest of the safety of pedestrians and highway users.

### **INFORMATIVES**

#### **Levels – Roads & Sewers**

1. The levels details for each phase will require the preparation, submission and approval of levels information for the main roads and sewers serving the site from Topcliffe Road.

#### **Network Rail Asset Protection**

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

#### **Public Right of Way**

3. No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development. Applicants are advised to contact the County Council's Access and Public Rights of Way Manager at County Hall, Northallerton on 0845 8 727374 to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Local Highway Authority any proposals for altering the route

#### **Landscaping**

4. Any landscaping within the site is to be positioned and maintained such that it does not encroach on or over the adjacent highway

#### **Railway Operator's Assets**

5. (a) All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

- (b) The surface drainage system of the development will be monitored for a period of two years from the completion of the development and any unforeseen problems caused by the increase of surface water into the nearby drainage system/culvert shall be rectified by the applicant to the approval of the LPA.
- (c) All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.
- (d) All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.
- (e) An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway.
- (f) Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.
- (g) Network Rail would request that the applicant contact our Asset Protection Engineer to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. Where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.
- (h) Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

**Parish: Sowerby**

Ward: Sowerby

**6**

Committee Date: 28 May 2015

Officer dealing: Mr T J Wood

Target Date: 15 May 2015

**15/00274/REM**

**Reserved Matters application for planning application 10/02373/OUT - food store and associated landscaping and car parking at Land at Topcliffe Road, Sowerby for Aldi Stores Ltd and Castlevale Group Ltd.**

## **1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The site lies to the south east of Topcliffe Road within the land granted outline planning permission in 2012 for a mixed use scheme comprising housing, employment neighbourhood centre and recreation uses.
- 1.2 The land is generally flat, formerly in agricultural use for cereal production. A native hedge forming a boundary to Topcliffe Road was removed as part of the drainage works and to form roundabouts on Topcliffe Road to access the Phase 1 developments on both sides of Topcliffe Road.
- 1.3 There is no built development on any of the land adjoining the application site.
- 1.4 The proposed development is to provide a foodstore (gross internal floor area 1,739 sq. m and net sales area of 1,254 sq. m and 92 car park spaces and a HGV loading bay.
- 1.5 The building is shown to be in a rectangular form with pedestrian access in the northwest corner. A new road is to extend from the southern roundabout to the rear of the store. The new road is to provide vehicular access for cars and HGV's.
- 1.6 The design of the building is in the form of a two storey brick and tile building on the western part nearest to Topcliffe Road with a flat roof behind a mainly rendered parapet wall for the eastern section of the building that faces on to the proposed car park and new road. The parapet wall height is shown to be 5.46 metres and ridge height 9.38 metres. Glazing is used on the Topcliffe Road elevation and car park elevation flanking the pedestrian access door. A glazed canopy is shown to extend over the trolley parking, cycle rack and entrance area.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 10/02373/OUT - Outline application for a mixed use development comprising of 925 dwellings (C3), employment (B1, B2 & B8) , neighbourhood centre, comprising: shops (A1), financial and professional services (A2), restaurant(s) and cafe(s) (A3), drinking establishment(s) (A4), hot food takeaway(s) (A5), hotel (C1), extra-care facility (C2) and medical centre and other non-residential institutions (D1), primary school (D1), community uses including recreation playing pitches and allotments, car parking and means of access (all matters reserved apart from means of access). Phase I residential 107 dwellings & Phase I commercial (B1c) all details to be considered; Granted 21 August 2012 subject to conditions and a section 106 agreement.

- 2.2 13/02427/REM - Reserved matters application for the provision of 90 unit extra care facility and associated retail units, public realm works and highways works; Approved 17 March 2014.
- 2.3 14/01945/REM - Reserved matters application for appearance, landscaping, layout and scale of the proposed Sports Village consisting of two main buildings, sports facilities, access road, ancillary buildings, car parking and footpath/cycle links relating to outline application 10/02373/OUT; Approved 26 March 2015.
- 2.4 15/00005/CAT3 - Breach of planning condition relating to the timescale for the completion of the off-site highway works. Planning Committee resolved on 13 November 2014 to press the developers to be pressed to submit an early application for a variation of the highway conditions 34 and 35 for the Sowerby Gateway development; and the need for enforcement action be deferred until the outcome of the application.
- 2.5 15/00145/MRC - Variation of Conditions 34 and 35 of permission 10/02373/OUT - highway improvements and widening of mini roundabout; reported elsewhere on this agenda.
- 2.6 15/00146/MRC - Variation of Condition 9 of permission 11/01435/FUL - improved junction; reported elsewhere on this agenda.

### **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are:

Interim Guidance Note - adopted by Council on 7th April 2015  
 Core Strategy Policy CP1 - Sustainable development  
 Core Strategy Policy CP1 - Sustainable development  
 Development Policies DP1 - Protecting amenity  
 Core Strategy Policy CP2 - Access  
 Development Policies DP3 - Site accessibility  
 Development Policies DP4 - Access for all  
 Core Strategy Policy CP14 - Retail and town centre development  
 Development Policies DP23 - Major out of centre shopping and leisure proposals  
 Core Strategy Policy CP17 - Promoting high quality design  
 Development Policies DP32 - General design  
 National Planning Policy Framework

### **4.0 CONSULTATIONS**

- 4.1 Sowerby Parish Council – Wish to see the application approved but comment that they wish to see reconsideration of the design, noting that this is a very prominent site at the entrance to a rural village and deserves a more aesthetically pleasing building more in keeping with its rural, edge of village location.
- 4.2 NYCC Highways – Seeking additional details on the layout of the parking areas and will recommend conditions be attached to any approval.
- 4.3 Network Rail – no observations
- 4.4 NYCC Archaeology – Advise that archaeological investigation is required.
- 4.5 NY Police – recommend measures to reduce the likelihood of crime and anti-social behaviour.



4.6 Publicity – site notice, neighbour notifications and press notice – No responses received

## 5.0 OBSERVATIONS

### Principle of a foodstore

5.1 The principle of developing a foodstore on land within the allocated area in the Local Development Framework has been secured by the grant of planning permission in August 2012. The outline planning application included a range of uses within the neighbourhood centre including Class A1 shops, with an expectation from supporting statements that the shops would provide for the day to day needs of local residents and businesses.

5.2 The size of the proposed store (1,739 sq. m gross internal floor area) is greater than the 500 sq. m gross threshold that is acceptable under LDF Policy DP23 in locations that are outside the Primary Retail Areas designated under DP21. The site is not within a Primary Retail Area. The aim of Policy DP23 is to protect the vitality and viability of existing town centres. Policy DP23 seeks to resist proposals unless it can be demonstrated to be acceptable and provides a series of 4 criteria that must be met to gain support of the policy. The grant of outline planning permission confirmed that the development of up to 2,601 sq. m (the area specified in the outline planning application for the full range of Class A uses, shops, banks, cafes, bars, and take aways) was acceptable in principle. The outline planning permission granted provides for the quantum of development now sought and the tests of Policy DP23 are not to be re-run. Development proposals that cumulatively result in more than 2601sqm gross internal floor space will go beyond the scope of the outline planning permission and may require a Retail Impact Assessment. The cumulative area of the permissions granted and the area in this application is less than 2,601 sq. m and no Retail Impact Assessment is required. This is confirmed by counsel's advice.

5.3 The main issues to considered in this case are

- The scale and type
- Highway safety – pedestrian crossing of Topcliffe Road
- Topcliffe Road street scene and public realm
- Design of the building and parking provision
- Servicing yard facilities

### Scale and type of foodstore

5.4 The scale of the retailing facilities have been designed to meet the needs of a convenience foodstore for residents of the area, both the new developments and existing properties in the vicinity. A foodstore as part of a neighbourhood centre was identified in the masterplanning work as a key feature to achieve a sustainable development that creates jobs and expenditure that contribute to the local economy, provided for the needs of residents and businesses without reliance on the car to access more distant facilities. The principle of the development is considered to achieve gains on all three strands of sustainable development as identified in the NPPF.

5.5 The traffic patterns of staff, customers and deliveries have been the subject of study to inform the applications for the modification of the trigger for the formation of the all way junction on the A168. The conclusions of traffic modelling is that the provision of a new foodstore to the south west of Thirsk would reduce the level of congestion in the town as some journeys would be diverted away from the facilities on Station

Road and in the town centre. Some of the new journeys associated with the new developments to the south west of Thirsk would be to the new foodstore rather than adding to the levels of traffic on Topcliffe Road and towards the town centre.

- 5.6 The modelling work has been the subject of scrutiny by North Yorkshire County Council. The implication on traffic flow and the requirement for highway improvements was considered at the time of the outline planning application and the applications reported on this agenda relating to the modification of the trigger dates for the completion of off-site highway works.

#### Highway safety – pedestrian crossing of Topcliffe Road

- 5.7 The ease and safety of pedestrian and cycle access to a foodstore is an important factor in achieving non-car based travel and the objective of sustainable development that underpinned the masterplanning of Sowerby Gateway. A network of off-road pedestrian and cycle routes has been identified in the masterplanning and has been incorporated in to the Phase 1 housing scheme. A planning condition would be appropriate on any permission for a foodstore to ensure that the pedestrian and cycle crossing point of Topcliffe Road is completed before the opening of the foodstore.

#### Topcliffe Road streetscene and public realm

- 5.8 The masterplan indicated that Topcliffe Road would have an active frontage with windows and doors leading on to a footway with connections to crossing points and a high quality of public realm. The design has a doorway to the foodstore that is close to Topcliffe Road and glazing facing towards Topcliffe Road. However the scheme also has an area of car parking that has a frontage to Topcliffe Road that does not contribute to a high quality street scene. The scheme is a compromise between the design objective for an active place with built up frontage and the commercial consideration of the applicant/operator wishing to pursue the modern format of foodstore design. This issue can be mitigated by landscape planting on the Topcliffe Road frontage.
- 5.9 A small area of public realm space with interactive community art is proposed to help make the space between the foodstore and neighbouring development plot (to the north east) a place of activity. The applicant has invited the use of a planning condition to secure the design approval and implementation of a public place that will be a focus to create additional activity and a reason to linger in the street.

#### Design of the building, parking, servicing provision and landscape

- 5.10 The design of the building is bespoke to the site. The use of brick and tile with a pitched roof of a height that is equivalent to a two storey dwelling is considered to be a suitable for the part of the site close to Topcliffe Road and a flat roof behind parapet wall for that part further from Topcliffe Road. The design needs to span a relatively large clear space to be practical in use as a foodstore. Other alternative designs were considered, however due to the location of the building at the entrance to Sowerby from the south west a conventional design of the building using materials that are used locally is considered appropriate.
- 5.11 A 92 space car park is proposed and shows a link to enable use in conjunction with developments of adjoining land. The layout incorporates a position for HGVs to deliver to the store without compromising the car park and away from the residential property to the north of Topcliffe Road. NYCC Highways has sought additional detail regarding the layout of the car park to ensure that it is able to provide the level of access and turning indicated on the submitted plans and provide safe pedestrian and cycle access. The car park is bounded by brick walling to Topcliffe Road and

landscaping within the site and to the boundary with the new access road to the Sowerby Sports Village to the south east of the site.

- 5.12 Tree and shrub planting is also proposed for the south side of the foodstore. The position of the site abutting the southerly roundabout and on the entrance to the development area from the open countryside beyond requires an approach that is appropriate to the transition from rural to urban. The building is shown to be set back a minimum of 11.5 metres from the roundabout. Overall the landscaping and design of the building is considered appropriate to the setting and the residential development, extra care housing and Sowerby Sports Village and the anticipated development of neighbouring plots of land.

#### Planning conditions and the Community Infrastructure Levy

- 5.13 The outline planning permission 10/02373/OUT provides conditional control over a wide range of the issues and as a consequence developments such as this do not require extensive additional conditions. As the proposal falls within the scope of the outline planning permission no additional liability arises through CIL.

### **6.0 RECOMMENDATION**

- 6.1 That subject to any outstanding consultations the application is **APPROVED** subject to the following conditions:
1. The development hereby permitted shall be begun within two years of the date of this permission.
  2. No bakery or commercial kitchen facilities shall operate within the approved foodstore until details have been submitted to and approved in writing by the Local Planning Authority of the extraction/refrigeration equipment to be used in accordance with Annex B of the document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' DEFRA (2005) all the works which form a part of any scheme to protect adjacent dwellings from noise shall be completed prior to the approved use commencing and shall thereafter be maintained in accordance with the details set out in the approved scheme.
  3. The development shall not be brought in to use unless a footway and cycleway crossing has been provided of Topcliffe Road in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority.
  4. The development hereby approved shall not be brought in to use until a scheme for the layout and maintenance of public realm space has been submitted to and approved in writing by the Local Planning Authority. The public realm space shall be implemented and maintained in accordance with the approved details.
  5. The development hereby approved shall not be brought in to use unless the delivery, parking and turning spaces have been made available in accordance with the approved plan. Thereafter the delivery, parking and turning spaces shall be kept available for the intended use in accordance with the approved plan.
  6. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered \*\*\*\* received by Hambleton District Council on \*\*\*\* unless otherwise approved in writing by the Local Planning Authority.

The reasons for the above conditions are:

1. To ensure compliance with Section 92 of the Town and Country Planning Act, 1990.
2. To protect the amenity of occupiers of adjacent dwellings and other premises from the adverse effects of noise and odours arising from the use of the building, in accordance with the Local Development Framework Policies CP1 and DP1.
3. To ensure that a safe crossing point is provided to encourage sustainable means of travel to the foodstore from planned neighbouring residential and commercial and other uses.
4. In order to provide active streetscene and a high quality of public realm in accordance with the objectives of Local Development Framework Policies CP17 and DP32.
5. In order to ensure that an appropriate parking and servicing provision is made available in the interests of highway safety.
6. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies CP1, DP1, CP17 and DP32.

**Parish: Sowerby**  
Ward: Topcliffe  
**7**

Committee Date: 28 May 2015  
Officer dealing: Mr A J Cunningham  
Target Date: 20 May 2015

**15/00310/FUL**

**Replacement of dwelling with a 2 storey dwelling and construction of a dormer bungalow to the rear with associated single domestic garages as amended by drawings and email received by Hambleton District Council on 14 May 2015 at 20 Croft Heads, Sowerby for Mr & Mrs Costick**

## **1.0 SITE DESCRIPTION AND PROPOSAL**

1.1 The scheme involves the demolition of the existing bungalow and its replacement by a frontage dwelling to the north-eastern portion of the site and a dormer bungalow to the rear (south-west).

1.2 Amendments have been received on 14 May 2015 comprising revisions to the site layout and minor design changes to the frontage dwelling, including its height in relation to immediately adjacent frontage dwellings. A 10 day re-consultation is in the process of being undertaken in respect of the amendments. To make best use of the site the agent considers the site layout should remain as originally submitted.

1.3 The frontage dwelling, as amended, would measure approximately 8.7m x 8.7m, with a total height of approximately 7.5m. The dwelling would provide for a kitchen, utility area, w/c, hall, dining room and sitting area at ground floor level and 4 bedrooms, an en-suite and bathroom at first floor level.

1.4 The dormer bungalow would measure approximately 10m x 8m, with a total height of approximately 7m. The dwelling would provide for a kitchen, utility area, w/c, hall, sitting area, bedroom/snug at ground floor level and at first floor level 2 bedrooms and a bathroom.

1.5 Materials for the proposed dwellings would comprise rendered walls and a slate roof to the frontage property, and facing brick and clay pantiles to the dormer bungalow.

1.6 The scheme would involve the creation of a new access to the public highway to the southern elevation of the proposed frontage property.

1.7 The frontage property would have a domestic curtilage with a depth of 10.9m. The depth of the domestic curtilage to the dormer bungalow would be 9m.

1.8 A protected species survey of the existing bungalow proposed for demolition has been submitted on 25 March 2015.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

2.1 13/02600/FUL - Alteration and extension to dwelling to provide ancillary accommodation as amended by plans received by Hambleton District Council on 5 February 2014 and 4 March 2014; Granted 2014 (relates to the ancillary accommodation at the property to the south-west of the proposed dormer bungalow)

## **3.0 NATIONAL AND LOCAL POLICY:**

3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP1 - Protecting amenity  
Development Policies DP32 - General design  
National Planning Policy Framework

#### **4.0 CONSULTATIONS** (comments made on original and not amended submission)

4.1 Sowerby Parish Council - "wish to see both the following applications called in to be determined by the Planning Committee and site visits held where appropriate. This represents over development of the site which will have a massive impact on the street scene of Croft Heads as well as the adjoining properties. Wish to see refused and a site visit held".

4.2 NYCC Highways - Conditions recommended regarding: gates and barrier position to highway, provision of parking/turning area, wheel washing facilities, on-site storage during development.

4.3 Environmental Health - No objections.

4.4 Yorkshire Water; expired 21.04.2015 - No responses received as at 12.05.15.

4.5 MOD - No objections.

4.6 Historic England - Application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

4.7 Neighbours notified and site notice posted; expired 30.04.2015 - Representations received from 5 respondents in summary concerning:

- Reduction in light and loss of view
- Development not appropriate in locality, and is over development and would change local character.
- Not in keeping with existing street scene.
- Impact on traffic and highway safety.
- Impact on neighbour amenity.
- Impact on visual amenity.
- Increased sense of enclosure.
- Properties are too high.

#### **5.0 OBSERVATIONS**

5.1 The main planning issues to take into account when considering this application relate to the principle of the dwellings in this location, any impact on the visual amenity of the surrounding area, any impact on neighbour amenity, any impact on highway safety, any flood risk issues, any impact on protected species, and the liability of the scheme for the Community Infrastructure Levy.

5.2 The dwellings are within the development limits of the service centre and are in principle acceptable.

5.3 The frontage dwelling, as amended, is able to compliment the built form of the street scene and does not harm local visual amenity. The dormer bungalow is not at odds with the

settlement pattern and its design conforms to the character established by the local built form.

5.4 The design of both dwellings, the positioning of their fenestration, their position on site in relation to adjacent property, and the physical separation of the proposed dormer bungalow from the ancillary accommodation at Nebb House, are sufficient to not give rise to an adverse impact on neighbour amenity.

5.5 The development would not have a harmful impact on highway safety subject to the conditions recommended by the local highway authority.

5.6 The site is within Flood Zone 1 which is at the lowest risk of flooding.

5.7 To safeguard protected species in relation to the existing dwelling proposed for demolition, a planning condition requiring the submission of an emergence survey and the implementation of mitigation measures could be attached to any permission granted.

5.8 The scheme is liable to the Community Infrastructure Levy.

5.9 In response to the neighbour concerns not already addressed a loss view is not a material planning consideration. The dwellings are of an appropriate height and position on the site not to cause a harmful sense of enclosure.

## **6.0 RECOMMENDATION: GRANT**

6.1 That subject to any outstanding consultations the application be granted.

1. The development hereby permitted shall be begun within three years of the date of this permission.

2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings received by Hambleton District Council on 17 February 2015 as amended by the drawings received by Hambleton District Council on 14 May 2015 unless otherwise approved in writing by the Local Planning Authority.

3. Prior to development commencing, details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the Local Planning Authority shall be advised that the materials are on site and the materials shall be approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.

4. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority

5. No dwelling shall be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with condition 4 above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.

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

7. The use of the building shall not be commenced until the external surfaces have been finished in accordance with a colour scheme to be approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented and retained in accordance with the approved details.

8. Any gates or barriers shall be so fixed so as to be unable to swing over the existing highway.

9. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference Site Layout 3651/PD/01). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

10. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.

11. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- a. on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- b. on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

12. Prior to development commencing a further protected species survey as recommended in the survey received by Hambleton District Council on 25 March 2015 shall be submitted to and approved by the Local Planning Authority. Any mitigation measures shall be implemented in full thereafter.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) CP1, CP17, DP1 and DP32.

3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.



4. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
5. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
6. In the interest of satisfactory drainage and to avoid pollution of the water environment.
7. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
8. In the interests of highway safety.
9. In the interests of highway safety.
10. To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
11. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
12. To safeguard protected species against demolition of the existing dwelling.

**Parish: Topcliffe**  
Ward: Sowerby & Topcliffe  
**8**

Committee Date: 28 May 2015  
Officer dealing: Mr T J Wood  
Target Date: 26 March 2015

**15/00146/MRC**

**Variation of Condition 9 of planning permission 11/01435/FUL - improved junction at Land at Junction of Topcliffe Road, Sowerby for Mulberry Homes (Yorkshire) Limited/Broadacres Services Ltd.**

**1.0 SITE DESCRIPTION AND PROPOSAL**

1.1 The application relates to conditions that were imposed on the approval of the off-site highway works at the junction of the B1448 and the A168 dual carriageway.

1.2 The condition states:

No further development shall take place within the application site approved under the application 10/02373/OUT unless, within 6 months of the occupation of the first dwelling or 1,500 sq. m of Commercial floor space being occupied (whichever occurs first), the scheme of improvement for the A168T/B1448 has been constructed and brought into use in accordance with the principles set out in the Mouchel drawing no. 1020530/SK/30 Revision D dated 04 November 2013.

Reason: To ensure the continued safe operation of the A168 Trunk Road in the area.

1.3 The terms of the condition can be seen to be closely aligned to the requirements of condition 34 of the outline application 10/02373/OUT.

1.4 The applicant has sought to vary condition 9 with the following wording:

9. No more than 207 dwellings (C3), 90 bed sheltered accommodation (C2), 1486 sq.m net retail sales area for food store (A1) and 6968 sq. m of employment floor space (B1c, B2 and B8) inclusive or a combination of these uses not exceeding the vehicle trip generation as set out in table 1.4 of Optima Highways Technical Note dated 23rd January 2015 until the highway improvement scheme on the A168/B1448 junction to allow "northbound on" and "southbound off" movements is constructed and brought into use.

1.5 The applicant's version of the revised condition 9 did not specify whether the dwellings were to be commenced, built or occupied. Clarification has been provided that the trigger sought is on occupation.

**2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

2.1 10/02373/OUT - Outline application for a mixed use development comprising of 925 dwellings (C3), employment (B1, B2 & B8) , neighbourhood centre, comprising: shops (A1), financial and professional services (A2), restaurant(s) and cafe(s) (A3), drinking establishment(s) (A4), hot food takeaway(s) (A5), hotel (C1), extra-care facility (C2) and medical centre and other non-residential institutions (D1), primary school (D1), community uses including recreation playing pitches and allotments, car parking and means of access (all matters reserved apart from means of access). Phase I residential 107 dwellings & Phase I commercial (B1c) all details to be considered; Granted 21 August 2012 subject to conditions and a section 106 agreement.

- 2.2 13/02427/REM - Reserved matters application for the provision of 90 unit extra care facility and associated retail units, public realm works and highways works; Approved 17 March 2014.
- 2.3 14/01945/REM - Reserved matters application for appearance, landscaping, layout and scale of the proposed Sports Village consisting of two main buildings, sports facilities, access road, ancillary buildings, car parking and footpath/cycle links; Approved 26 March 2015.
- 2.4 15/00145/MRC - Variation of Conditions 34 and 35 of 10/02373/OUT - highway improvements and widening of mini roundabout; reported elsewhere on this agenda.
- 2.5 15/00274/REM - Reserved Matters application for food store and associated landscaping and car parking; reported elsewhere on this agenda.

### **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
 Core Strategy Policy CP2 - Access  
 Development Policies DP3 - Site accessibility  
 Development Policies DP4 - Access for all  
 Allocations Document Policy TM2A - South West Thirsk Area, Westbourne Farm, Sowerby - adopted 21 December 2010  
 Allocations Document Policy TM2B - South West Thirsk Area, Cocked Hat Farm, Sowerby - adopted 21 December 2010  
 Allocations Document Policy TM2C - South West Thirsk Area, West of Topcliffe Road, Sowerby - adopted 21 December 2010  
 Allocations Document Policy TM2D - South West Thirsk Area - East of Topcliffe Road, Sowerby - adopted 21 December 2010  
 Allocations Document Policy TM2E - South West Thirsk Area, Gravel Hole Lane, Sowerby - adopted 21 December 2010  
 National Planning Policy Framework  
 National Planning Practice Guidance

### **4.0 CONSULTATIONS**

- 4.1 Sowerby Parish Council - Wish to see refused because planning permission was granted in the first place based on the infrastructure being in place as per Conditions 9, 34 and 35. Councillors would wish to see compliance at the earliest opportunity.
- 4.2 NYCC Highways – Requested and agreed a revised methodology for undertaking additional assessments which will be summarised in a revised technical note. Then will be able to undertake a review and provide a suitable response.
- 4.3 Highways Agency – Offers no objection
- 4.4 Publicity, site notices, press notices and neighbour notifications – One response received objecting to the application.

### **5.0 OBSERVATIONS**

- 5.1 The main issues in the determination of this application is whether the planning conditions that have the aim of securing improvements to the highway network are still required and whether the change to the trigger point can be made whilst

satisfying the reasons for the conditions and meeting the 6 tests for planning conditions laid down by Government in the NPPF paragraph 206, namely:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

5.2 The need for the improvements and stated reasons for the conditions are matters of safety and capacity of the highway network. There is no reason to conclude that the need for the works to increase highway capacity and secure safety improvements have changed significantly since the determination of the application 2012.

5.3 However, the trigger point in the conditions was not based on evidence from the traffic modelling work but sought to achieve the early delivery of the off-site highway works, as noted in the report to the November 2014 meeting of Planning Committee:

“It is relevant to note that the trigger point referred to in the conditions did not come from the findings of the modelling work or the Traffic Assessment submitted with the application.

Rather it arose from assurances given by the original developer about how soon the junction could be delivered and a desire from Members to achieve an early delivery in response to concerns from Sowerby residents. The specific highway improvements, however, were derived from the Traffic Assessment and modelling.”

5.4 The application is supported by modelling work that provides evidence for alternative trigger points that shows the level of growth of traffic flows can be accommodated within the highway network.

5.5 The level of queueing at junctions is shown to increase overtime though the improvements to the network within Thirsk town centre reduce the severity of the increases. The conclusions reached by the applicants consultant highway engineer is that the development will not exceed the capacity of the highway network in 2015 or 2016 and that in the “design year” of 2017 the traffic is still being accommodated within the highway network by the time of the completion of the junction improvements of the B1448 and the A168.

5.6 The detailed advice of North Yorkshire County Council as Highway Authority is essential in order to determine whether the submission modelling work has been appropriate and whether the proposed triggers are acceptable in terms of both safety and the capacity of the highway network. Equally, it was noted in the November 2014 report to Planning Committee that “the Council could be on weak ground to take enforcement action until North Yorkshire County Council has come to a view on the modelling work”.

5.7 On the basis of the data supplied in the traffic modelling it is reasonable to conclude that the works required by the condition continue to meet the 6 tests.

5.8 The approved version of condition 9 as set out at paragraph 1.4 above is recommended to be replaced with the following:

9. No more than the following quantum of development shall be occupied or brought in to use unless the highway improvements scheme at the junction of the A168/B1448 to allow 'northbound on' and 'southbound off' movements is constructed and brought in to use

207 dwellings  
90 bed extra-care apartments  
1486 sqm net retail sales area foodstore  
6968 sqm of employment floorspace

Reason: To ensure the continued safe operation of the A168 Trunk Road in the area.

These thresholds are subject to further discussion with the applicants and the Highway Authority and may change. Any change will be reported to the meeting.

- 5.9 Approval of an application to vary a condition of an earlier approval results in a new decision being made, a new decision notice describing the whole development and listing all conditions is required. In the event that the decision on this application is to approve the development the description of the development will be the full title as set out in the 2010 application. All the conditions will be required to be restated subject to any amendments that are necessary
- 5.10 In contrast to the application to vary conditions 34 and 35 of 10/02373/OUT reported in application 15/00145/MRC the works for the construction of the new junction was not the subject of a Section 106 Agreement. The development is not liable for payments under the Community Infrastructure Levy.

## **6.0 RECOMMENDATION**

- 6.1 That subject to any outstanding consultations the application is **GRANTED**

(Note: The thresholds set out in recommended condition 9 are subject to further discussion with the applicants and the Highway Authority and may change. Any change will be reported to the meeting.)

1. The development hereby permitted shall be begun within five years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing number 1020530/SK/38 Rev.A received by Hambleton District Council on 1st November 2013 and drawing number 1020530/SK/30 Rev.D received by Hambleton District Council on 21st November 2013 otherwise agreed in writing by the Local Planning Authority.
3. The development hereby approved shall not be commenced until details of surface water disposal facilities have been submitted and approved in writing by the Local Planning Authority. Thereafter, the approved drainage scheme shall be implemented and maintained in accordance with the approved details.
4. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:
  - (i) Full details of the required highway improvement works in accordance to the Department for Transport's Design Manual for Roads and Bridges, have been submitted to and approved in writing by the Local Planning Authority.
  - (ii) Independent Road Safety Audits have been carried out fully in accordance with HD19/03 - Road Safety Audit or any superseding regulations.
  - (iii) A programme for the completion of the proposed works has been submitted.

5. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning agrees in writing to their withdrawal.
6. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:
  - (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
  - (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.
7. Unless otherwise approved in writing by the Local Planning Authority, there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until details of the routes to be used by HCV construction traffic have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the approved routes shall be used by all vehicles connected with construction on the site.
8. Notwithstanding the submitted details and prior to the development commencing, a scheme of soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall provide details of the species, numbers and locations of planting, timescales for implementation and a maintenance schedule. Thereafter, the approved landscaping scheme shall be implemented in accordance with the approved details.
9. No more than the following quantum of development shall be occupied or brought in to use unless the highway improvements scheme at the junction of the A168/B1448 to allow 'northbound on' and 'southbound off' movements is constructed and brought in to use.
  - 207 dwellings
  - 90 bed extra-care apartments
  - 1486 sqm net retail sales area foodstore
  - 6968 sqm of employment floorspace

The reasons are:

1. To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Hambleton Local Development Framework Policies CP17 and DP32.
3. In order to avoid the pollution and flooding of watercourses and land in accordance with Local Development Framework CP21 and DP43.
4. In accordance with Policy CP1, CP2, DP1 and DP4 and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

5. In accordance with Policy CP1, CP2, DP1 and DP4 and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
6. In accordance with Policy CP1, CP2, DP1 and DP4 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
7. In accordance with Policy CP1, CP2, DP1 and DP4 and in the interests of highway safety and the general amenity of the area.
8. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings in accordance with Policies CP1, DP1, CP17 and DP32 of the Hambleton Local Development Framework.
9. To ensure the continued safe operation of the A168 Trunk Road in the area.

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