

**PLANNING COMMITTEE MEETING AGENDA**

**Monday 18th November, 2013**

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**SKIPTON AREA**

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WARD AND APPLICATION No.	PROPOSED DEVELOPMENT AND SITE ADDRESS
GLUSBURN	RESIDENTIAL DEVELOPMENT.
<b>32/2013/13633</b> and <b>32/2013/13634</b>	LAND TO THE EAST OF MALSIS SCHOOL, COLNE ROAD, GLUSBURN. and SITE TO REAR (WEST) MALSIS SCHOOL, COLNE ROAD, GLUSBURN.
	APPLICANT NAME: MR MARCUS PEEL C/O CHARTREE DEVELOPMENTS (MALSIS) LTD TARGET DECISION DATE: 02/12/2013 CASE OFFICER: Mark Moore

**This is a combined committee report to cover two outline planning applications for residential development located within the grounds of Malsis School. The applications are referred to planning committee as both are departures from the Development Plan and one application is classed as major development.**

1. Site Description

- 1.1 There are two separate application sites which are both within the grounds of Malsis School located on the northern side of the A6068 Colne Road, Glusburn.
- 1.2 The school was founded in 1920 and is based in an enclave of buildings set within extensive private grounds to the west of the main settlement of Glusburn. The school site is in an area outside of Development Limits that is designated in the Local Plan as open countryside.
- 1.3 The school buildings are set well back from the main road and are accessed via an entrance onto Colne Road which leads to an extensive driveway bounded either side with landscaped grounds comprised of grassed lawns with extensive tree and shrub planting. The main school building, Malsis Hall is Grade II listed and is surrounded by a mix of more contemporary school buildings which are of no architectural or historical significance. There is a Lodge House (Grade II listed) located immediately adjacent to the main entrance. There is a secondary entrance at the western end of the school site that opens onto Carr Head Lane.
- 1.4 There is an existing 3k MTB route 'The Hope Technology Mountain Bike Trail' that runs around the periphery of the site.
- 1.5 There are three listed heritage assets within the school site as follows:

**Malsis Hall School – Grade II Listed 13.10.1984.**

*'Mansion, built 1866 for James Lund, now a school. Ashlar with slate roof. Two storeys with a taller belvedere, irregularly composed into 12 bays on the entrance façade (1:3:1:3:1:3) which has a porte cochere. The south façade has 7 bays of which the last breaks forward. The detail is Italianate: pilaster strips at angles, rusticated below and panelled above, carry an entablature and a pierced arcaded parapet. The windows are mostly of 2 –lights with cornices on consoles, round-headed to first floor but segmented below. The skyline is enlivened with urns and the belvedere tower, which is roughly central and has similar detail. Interior not inspected'.*

**Lodge to Malsis Hall – Grade II Listed 23.10.1984.**

*'Lodge, circa 1866 (date of Malsis Hall) (qv). Ashlar with slate roof. Simple single-storey L-shaped building in the Italianate style. Plinth and modillion cornice, with rusticated pilaster strips at corners. The gables are treated as open pediments. Coupled round-headed windows with moulded archivolt, sashed with no glazing bars. Round-headed doorway. Two chimneys'.*

### **Gatepiers and railings to Malsis Hall – Grade II Listed 23.10.1984.**

*‘Gatepiers and railings forming a short screen, circa 1866, in front of lodge to Malsis Hall (qv). Four square stone piers with alternating rustication, crowned by caps with segmental pediments of each side and (in the case of the 2 inner piers only) by carved floral sprays, joined by dwarf walls surmounted by simple railings’.*

#### **Planning Application 32/2013/13633 (eastern site):**

- 1.6 The first and largest of the two sites (the eastern site) is a 2.5 ha triangular shaped area of land located at the eastern end of the school grounds which is divided by the main entrance driveway to the school and bounded by the main Colne Road to the south and by Glusburn Beck to the north. The extreme eastern end of the site lies across the beck from the outer edges of the settlement of Glusburn, the nearest properties being residential development at the Old Corn Mill on the opposite side of Glusburn Beck to the east of the site and a small row of houses on the southern side of the road at Bridge End. Immediately opposite the site on Colne Road to the south there is further development comprising a public house/restaurant (The Dog and Gun) and a group of residential cottages and barn conversions.
- 1.7 To the west of the site there are the remaining school grounds which include a large pond that abuts the western end of the southern part of the site. There is a small derelict lodge/folly building located at the south-east end of the pond which falls outside of the application site.
- 1.8 Beyond the immediate school boundaries the surrounding land is open countryside with isolated farmhouses and residential conversions. The site sits in a valley with the land to both the north and south rising in level.
- 1.9 The eastern site is characterised by its managed parkland appearance which is predominantly comprised of well-maintained grassed areas with substantial mature tree and shrub planting around the periphery. Both parts of the site are relatively level with the area to the south of the driveway being slightly raised in comparison with the northern area which has been laid out in part as a golf course.
- 1.10 Although the school grounds are extensively tree planted there are no TPO's on any of the trees located within or immediately adjacent to the application site boundaries. The site is also not within the boundaries of a conservation area.
- 1.11 The majority of the application site is Flood Zone 1, but parts of the northern side of the site which lie adjacent to Glusburn Beck fall within Flood Zones 2 and 3 (Flood Zone 3 is the land at most risk of flooding).

#### **Planning Application 32/2013/13634 (western site):**

- 1.12 The second, smaller (western) site is 0.10 ha in area and lies immediately to the west of the main school buildings. The site has school buildings and a car parking area to the north and east, is bounded by Glusburn Beck and open countryside to the west and by Carr Head Lane to the south.
- 1.13 The site has a gated access directly onto Carr Head Lane and falls in level forming a hollow with the surrounding school and lane at higher levels. This site is very well screened with extensive tree and shrub planting and is relatively flat across the centre although the land to the north and east of the site rises in level fairly steeply whilst the southern part rises at a fairly gentle gradient to the entrance onto Carr Head Lane. Unlike the eastern site this site is not landscaped and is used as a less formal space including use as a bonfire ground. The site is nevertheless an enclosed space with attractive planting on its periphery.
- 1.14 Other than the school buildings the only other properties nearby this site are situated in a small ribbon of development along the southern side of Carr Head Lane to the south-west and comprise various cottages and residential conversions.

- 1.15 Parts of this site fall within Flood Zones 2 and 3 where it adjoins Glusburn Beck. Most of the site however is identified as Flood Risk 1 (where flooding events are not generally expected).
- 1.16 **Officer note:** The site characteristics of both the western and eastern sites differ substantially from the wider landscape which is identified in the Craven District Landscape Appraisal as a *'semi-enclosed intermediate landscape comprising pasture with wooded gills and woodland'*. Essentially, the wider landscape beyond the immediate settlement areas and application site is a rolling, pastoral landscape of medium sized fields enclosed by a network of dry-stone walls and interspersed with distinctive pockets of woodland.

## 2. Proposal

- 2.1 The planning applications are both outline with just access applied for as well as the principle of development. The appearance, landscaping, layout and scale are therefore reserved matters.
- 2.2 The following is a brief summary of each application starting with the larger (eastern) site. After the summary of each proposal there is an overview of matters which are generic to both applications.

### **Planning Application 32/2013/13633 (eastern site):**

- 2.3 An exact figure of new dwellings has not been applied for, although in the description of development the applicant has indicated they anticipate that a total of 41 new houses will be provided on this site. An illustrative layout plan has been submitted which shows a mix of detached, semi-detached and terraced properties, the larger proportion of housing (27 units) being to the northern section of the site. It is anticipated that the development will provide a range of house sizes from two to five bedroom properties with some affordable housing provision on site.
- 2.4 It is proposed that all housing would be constructed of stone and slate reflecting the local vernacular.
- 2.5 The existing school access from Colne Road would be the main access serving the development. This would require carriageway improvements to be made including widening, upgrading to an adoptable standard and the inclusion of footpaths. The illustrative layout indicates the access terminating in a roundabout with separate estate access roads to the north and south and the third exit connecting to the existing school access road to the west. As part of the indicative layout vehicle parking for the proposed housing is comprised of a mix of attached and detached garaging, private drives and shared rows of communal parking.
- 2.6 The overall form of the housing layout shown is a conventional urban estate design which in the case of the northern part of the site is a very linear arrangement culminating in cul-de-sacs at either end.
- 2.7 The southernmost part of the eastern site (14 units) comprises a cluster of detached housing set around a single access road.

### **Planning Application 32/2013/13634 (western site):**

- 2.8 Again the exact number of dwellings is a reserved matter, but it is indicated that a maximum of 5 dwellings would be built on this site. Illustrative plans indicate that these would be detached properties with attached garages and would be arranged around a single cul-de-sac.
- 2.9 As with the eastern site the housing would be built of stone and slate to reflect the local vernacular.
- 2.10 Access to the site would be via a single access onto Carr Head Lane to the south and would lie immediately adjacent to the existing school access at this point. This would require improvements to the existing access in order to provide adequate visibility splays to meet NYCC Highways specifications.

2.11 **Officer note:** Both of the illustrative layouts and visualisations included in the supporting information have been submitted in order to provide an indication of how the sites might be developed. It is very unlikely that the layouts shown or proposed arrangement and mix of housing would be ultimately acceptable should outline planning permission be granted and these would therefore need to be considered in detail at the reserved matters stage.

**The Applicants Case in Support of the Need for Proposed Development.**

2.12 To properly consider and assess this development proposal it important to understand the concept of 'Enabling development'. 'Enabling development' is a material consideration. If for example a stand-alone application for planning permission is unacceptable and would ordinarily be refused planning permission, but the granting of that permission would enable funds to be spent on another desirable project, then this would be a material consideration in the planning process. The circumstances when enabling development will be accepted are limited and planning guidance on this has been produced by English Heritage in its document 'Enabling Development and the Conservation of Significant Places'.

2.13 The applicants have submitted the proposals partly on the basis that the main school hall is a Grade II listed building that is urgently in need of repair. Those repair works comprise; roof works, replacement windows; electrics; re-decorating and repairs to the chapel. In total the applicants agent estimates that the cost of the repair and maintenance works would be £450,000 and argues that on the basis that the proposed development will fund these necessary works to a listed building it would constitute enabling development.

**Officer note:** The estimates only relate to the repair and maintenance of the main school and chapel buildings. For planning purposes 'enabling' can only be assessed in terms of the need to protect a heritage asset which in this case would be the Grade II listed Malsis Hall although the chapel would be listed by association.

2.17 A second element to the applicant's case relates to the school business itself rather than the listed heritage assets. A confidential financial appraisal has been submitted to CDC which outlines that the school must sell off land for development in order to find a financial solution to its bank debts. It is emphasised that the school has re-modelled its staffing, numbers of pupils and fee structure and has managed to improve its finances to a point where the only shortfall relates to servicing the outstanding bank debts. It is the case therefore that the outcome of these applications will have a significant impact upon the future prospects of Malsis School.

2.18 The case put forward on behalf of the school is that the significance of the financial situation is a material planning consideration. Specifically it is argued that the school contributes to the local community and economy in the following ways:

- The school employs 50 people locally.
- There is a supply chain which includes many local companies and service providers.
- Malsis provides scholarships and bursaries to local children and the receipt of funds from the sale of the land would allow them to make further provision in the area.
- The school offers significant community use of its sports and recreational facilities.

The basis of the applicant's argument is therefore that the potential closure of the Malsis School would be to the detriment of the heritage assets and to the wider community. Specifically, the financial gain from allowing development to take place would have benefits by securing repairs on the listed building and ensuring the continuation of the Malsis School and its contribution to the local economy and community. In relation to the latter issue the applicant's agents have submitted examples of appeal decisions and conclude that:

*'while enabling development in strict conservation terms may apply to only the receipt of funds which would support the conservation of heritage assets, there are also various cases where senior decision makers have permitted developments which give rise to benefits for educational facilities and their local communities'.*

2.19 In addition to the above the school are willing to provide affordable housing on the site. An affordable housing pro-forma has been signed and the comments of the Strategic Housing Team are set out in this report. The applicants have undertaken to provide 40% affordable housing subject to financial viability to be assessed at the reserved matters stage. In a note accompanying the affordable housing pro-forma the applicant's agent has stated that due to the financial requirements of the school and the enabling elements of the proposal '*affordable housing at the target amount is highly unlikely to be deliverable*'.

**Officer note:** The applicant's indicative proposals for 46 dwellings to be provided at the sites are based in part upon financial projections that would include resolution of the schools existing debt problem.

2.20 Another element to the applicant's justification relates to the various sports and leisure facilities on the site which it is proposed to enhance using monies from the proposed development. These facilities would be made available to members of the public via a community use agreement which has been discussed with the CDC Sports Development Officer and Sport England. Details of the proposed agreement and the comments of both the SDO and Sport England are detailed in this report.

2.21 The applicants have also pointed to the economic benefits that would accrue from local employment and the New Homes Bonus should the development be allowed to take place.

2.22 The final element to the applicant's justification is based upon the Council's supply of housing land. In summary the argument is that the Council presently has a shortfall in meeting its five year supply of housing land and that the development proposed would accord with the Council's strategic housing objectives.

### 3. Planning History

#### **Application 32/2013/13633:**

3.18 There is no planning history of direct relevance to this application site.

#### **Application 32/2013/13634:**

3.19 66/2000/841: Construction of new pre-preparatory school, new parking area, alterations to existing access and demolition of existing pump house. Application withdrawn.

3.20 66/2000/842: Construction of new pre-preparatory school, new parking area, alterations to existing access and demolition of existing pump house. Approved April 2001.

3.21 66/2000/1184: Construction of new pre-preparatory school, formation of new parking/drop off area. Approved April 2001.

### 4. Planning Policy Background

#### 4.1 **The National Planning Policy Framework**

#### 4.2 **Saved Local Plan Policies:**

ENV1: Development in the Open Countryside

ENV2: Requirements for Development in Open Countryside.

ENV10: Protection of Trees and Woodland.

ENV18: Light Generating Development.

SCR2: Provision of Recreation Space in New Housing Developments.

T2: Road Hierarchy.

#### 4.3 **Other Policy/Guidance:**

PPS5: Planning for the Historic Environment Practice Guide (Revised June 2012)

English Heritage: Enabling Development and the Conservation of Significant Places.

### 5. Parish Council Comments

5.1 **Glusburn and Cross Hills Parish Council:** The Parish Council has no objections to the above applications for Malsis School and are happy with the location of the proposed houses within the setting of the school listed building and therefore fully supports the application. The trees along the driveway approach to the school need to be kept. The Parish Council also feel that in light of recent planning applications that have built affordable housing and failed to complete the sale of these to local residents, no affordable housing should be built in this application.

6. Consultations

6.1 **CDC Environmental Health:** No known contaminated land issues or environmental protection issues in relation to either site.

6.2 **CDC Strategic Housing:** (In response to both sites). The Council's Interim Affordable Housing Position seeks the provision of 40% affordable housing on sites of 5 dwellings and above. This requirement is subject to financial viability. Where an applicant believes it is not financially viable to deliver 40% (whilst still generating development profit at standard industry levels) he must submit a development appraisal for consideration by the Council. This is not done at outline stage as the detail of the market housing (types, sizes and numbers) is not known. This means that development costs and values cannot be calculated with any certainty, particularly when a Reserved Matters application and start on site may be some way off.

The Development Appraisal will include an assessment of costs (including the cost of other planning objectives for the site) and values, with the starting point being the current use value of the site. Initial talks have been held with the Council's Valuation Surveyor to establish that value.

The applicant has signed the Affordable Housing Pro-forma to indicate that he is willing to provide 40% affordable housing on site, subject to financial viability. As such, proposals accord with the Council's 'Interim Affordable Housing Position' and are therefore supported by Strategic Housing. It is clear however that if development of this site is intended to meet wider planning objectives (and given its current use and the likely costs associated with the listed buildings), 40% will not be viable. It is therefore recommended that if Members are minded to approve this application, the standard affordable housing condition should apply. This defers consideration of the precise amount, type, size and siting of affordable homes until such time as a detailed scheme is submitted and affordable housing proposals discussed and agreed with the applicant.

It is noted that English Heritage has suggested that any affordable homes should be commuted off site and dealt with by way of commuted sums. Without 'robust justification', there are no grounds to do this. The NPPF is very clear that affordable homes should be well integrated to promote balanced and mixed communities. The design and appearance of any affordable homes on this site will be indistinct from that of the market dwellings and can be dealt with at reserved matters stage by the Planning Case Officer.

Subject to any affordable housing provision being on site and imposition of the relevant condition the proposals accord with the Council's Interim Affordable Housing Position.

6.3 **CDC Sports Development Officer:** Based upon the Councils SRC2 Policy requirements it is calculated that a development of 46 units (across both of the application sites) would be required to provide a total of 2691m<sup>2</sup> of open space equating to a commuted sum of £142,778 for off-site provision in lieu of on-site provision.

The SDO advises that the school benefits from having good sports facilities which will require some attention if they are to be used by the wider community and has provided an A and B list of the facilities that are considered to be in most demand by the community as well as being able to provide the best income. Those facilities are as follows:

A List: Sports hall



Pavilion and cricket nets  
Astro turf  
MTB circuit  
Old gym  
Provide football pitches  
Improved drainage to top and bottom fields  
Bunk house changing room  
Swimming pool

**B List:** Bike shed  
Shooting range  
Canoe/kayak/fishing lake  
Confidence course  
New all-weather surface

Based upon the applicants details of investment and improvements that they plan to make on site (set out above), the SDO advises that these would be a sufficient off-set against the SRC2 Policy requirements provided that these facilities are offered to the community under a set of community use conditions.

Notwithstanding the above the SDO has also commented that the application has not provided details of how the improvements would be secured and therefore can only offer his support in principle.

**Officer note:** The applicants have since submitted a letter to set out heads of terms for a legal agreement covering sports facilities at Malsis School.

The heads of terms sets out that improvements to the sports and recreational facilities at the school will be provided subject to a legal agreement for the following:

Improvements: Sports hall and associated facilities  
Creation of 3 new football/sports pitches  
Provision of lighting for Astro turf  
Improvement to MTB course  
Provision of separate changing facilities for small swimming pool  
Draining of cricket field

Community use: Existing sports hall  
Use of three new sports pitches  
Use of the Astro turf facility  
Use of the MTB trail  
Use of indoor swimming pool  
Use of cricket field

In response to the draft heads of terms the SDO comments:

- There is a lack of detail for the proposed 6 improvements, particularly around quality and quantity,
- Some of the proposed 6 improvements require future planning approval and so there is uncertainty about the legal position on including something in such an agreement.
- There should be something in the agreement about the future maintenance of the facilities in order that they are fit for purpose for a defined period of time.

- The proposed community use of the said facilities is welcome but the full details need to be re-negotiated and agreed.

In principle the SDO is supportive of a community use agreement and would also be guided by Sport England's position and expertise on this matter.

**6.4 Sport England:** It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184), in that it is on land that has been used as a playing field within the last five years, and the field encompasses at least one playing pitch of 0.2 ha or more, or that it is on land that is allocated for the use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement.

Sport England has therefore considered the application in the light of its playing fields policy. The aim of this policy is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy seeks to protect all parts of the playing field from development and not just those which, for the time being, are laid out as pitches.

The Applicant has stated in the Planning Statement that the capital receipt generated from the development will be re-invested in the school's sports facilities (which will then be made more widely available for community use). The acceptability of the scheme to Sport England comes down to the value of the improvements to sports facilities against the value of the sports facility that is to be lost to development and whether the improvements can be secured and phased against the housing development, and made more widely available for community use.

Whilst it is possible to seek a formal community use agreement that opens up the school's sports facilities up to wider public use (at prescribed times), the application does not currently set out how the proposed improvements to the sports facilities can be tied to, and phased in relation to the housing development.

Until a formal mechanism can be established and agreed between the applicant, LPA, and Sport England to tie the improved sports facility offer to the residential development (by way of a Section 106 Agreement or series of conditions for example) it will be necessary for Sport England to **object** to the development.

**Officer note:** It should be noted that if the Planning Authority resolve to be mindful to approve the application without Sport England removing their objection then in accordance with the Town and Country Planning (Consultation) (England) Direction 2009, the application must be referred to the National Planning Casework Unit for a final decision.

**6.5 NYCC Highways:**

In response to 32/2013/13633: Some details would need revising for adoption of roads but recommended that planning permission is granted subject to standard conditions. In a separate response Highways have confirmed that visibility to the site is acceptable and that following radar speed checks at the access onto the A6068 there are no objections to the increase in traffic that would be caused by the development. They have also confirmed that they have recommended conditions to minimise any disruption during the construction phase.

In response to 32/2013/13634: A single access point using the existing school should be used but recommended that planning permission is granted subject to standard conditions. They advise that amendments have been made to the site access by negotiation with the applicant's agent to ensure that visibility at the junction is acceptable.

Conditions relating to visibility have been recommended for both applications and that there are no reasons to recommend refusal of either application on grounds of highway safety.

6.6 **NYCC Education:** Based on the proposed density of a total of 46 properties (across both application sites) no developer contribution would be sought. Should the density of the site change NYCC Education would need to re-calculate.

6.7 **NYCC Historic Environment Team:** Comment that the southern part of the larger (eastern) development site lies within an area of archaeological interest due to the possibility that a late medieval house was situated there. As a consequence the Historic Environment Team advises that there may be potential to disturb or destroy archaeological remains and that the possibility of relic foundations have been identified in the Phase 1 Environmental Assessment submitted with the application.

Request that a scheme of archaeological evaluation be undertaken to identify what remains there may be on the site and assess the potential archaeological impact, this to include a Desk Based Assessment and a geophysical survey. This work will be required to be undertaken prior to the determination of the application.

6.8 **English Heritage:** EH initially objected to the larger development site on the grounds of adverse impact on the setting and significance of Malsis Hall and concern that the enabling element of the application does not conform with best practice. They also commented that both sites should be taken into consideration in assessing the need for enabling development and advised that the larger site should not be developed if sufficient funds can be raised from the smaller and less obtrusive site to the west of the school.

Following a meeting with the applicants and their agent EH has revised their comments and removed their objection. The revised comments are as follows:

Malsis School is a Grade II listed Mansion built in 1866 sited in a pastoral landscape setting. The approach to the school is an important part of the setting and therefore an important part of the significance of the building, adding to its appearance of importance and architectural 'presence'. The mansion also has considerable communal interest as a school, a function it has had since 1920 - i.e. for the greater part of its existence.

A previous hall was sited on the triangle of land to the south of the drive and east of the lake. This area may have considerable evidential value. If it is intended to use this part of the grounds for housing this area will need to be archaeologically evaluated and appropriate mitigation will need to be carried out.

The figures mentioned in the enabling development case were explained to be the minimum necessary to secure the future of this building in its current function, which has been its use as a school for the majority of its life and is now a part of its significance. In the light of this the development which is required to achieve the necessary financial objectives might be improved so that harm is significantly reduced and if at all possible the development should be achieved without materially harming the heritage values of the place. English Heritage considers there is likely to be some harm to the setting of the building, especially from the development to the north of the driveway. Archaeological mitigation is also likely to be required.

Amount of development and affordable housing: It appears that there are too many houses in the scheme for the two sites available. This has resulted in a regimented layout that is unsympathetic to the curvaceous nature of this historic landscape site. We note the District Council's policy requirement of 40% affordable housing. It would in our view be unfortunate if this sensitive site was required to carry the physical and financial burden of affordable housing, which is a significant burden over and above the finance required to repair the heritage assets. It is understood that the lodge house also requires repair and that this would be additional to the sum already stated as being required for repairs to the mansion itself.

EH request that Council considers whether it is able to reduce the percentage of affordable

housing required in this case, given the heritage assets involved, the need for enabling development and the visual and archaeological sensitivity of the site. We also request that any affordable housing that your council nevertheless requires is provided for off-site so that the physical burden of new housing on this site can be considerably reduced and a more sympathetic, less intensive layout can be devised.

Defining the impact of the proposed development: The present applications are for outline planning permission only. EH believes that planning permission should only be granted for enabling development if certain criteria are fulfilled. One of these criteria is that *'the impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission.'* We are aware of the urgency of receiving planning permission in this case. In view of this EH have considered the possibility of outline planning permission being granted, on the basis that a new layout, to include a review of the number of houses, appropriate landscaping and other mitigation measures, would be agreed in detail as reserved matters. Should this approach be adopted, EH would expect to have an opportunity to comment further on the revised layout, proposed landscaping and any other mitigation measures proposed.

Linking the proceeds of development to the repair objectives: EH believes that planning permission for enabling development should only be granted if the achievement of the heritage objective (in this case the repair of the mansion and preferably also the lodge) is securely and enforceably linked to the planning permission. A Section 106 agreement will normally be required. This should quantify the repairs to be carried out using the funds generated probably by a schedule of works.

Summary:

If Council is minded to grant outline planning consent, EH would expect the amount and layout of the housing, the detailed landscaping scheme, archaeological evaluation and mitigation and any other mitigation measures, to be made reserved matters for subsequent agreement in detail. If it is intended to use the site to the south of the drive and east of the lake for housing, this area will need to be archaeologically evaluated and appropriate mitigation will need to be carried out. We would also expect the site north of the drive to be evaluated and any necessary mitigation to be carried out. We would wish your Council to consider further the need for affordable housing provision; also (if appropriate) the level of such provision and whether this could be off site. EH wish to comment further on the revised layout, proposed landscaping and any other mitigation measures proposed and expect any permissions to be securely linked by legally enforceable methods to the repair of the heritage asset(s) according to an agreed schedule of repair.

- 6.9 **CDC Conservation Advisor:** The site lies outside the built-up area of Glusburn, and it makes a significant contribution to the landscape character of this open countryside between Glusburn and Cowling. Visually and historically, the overall Malsis School site has a strong presence alongside the Colne Road. Its significance is a result of key elements, such as the confident mid-19<sup>th</sup> century architecture of the former mansion, the contemporary expansive parkland setting with its carefully selected and laid out planting, the purposely created internal open spaces, and the vistas both in and out of the site.

Application 32/2013/13633:

From the listed entrance Gate Piers and Lodge and along the entrance drive, the view consists of a particularly attractive, mature planned parkland of a very high quality, no doubt laid out by a professional landscape/garden designer. The impression is of a quality visual experience, as is found in some public parks in northern industrial towns. This sweeping formal approach is a fine sequence of carefully laid out tree planting, shrubs, created open and enclosed spaces, all done in the mid-19<sup>th</sup> century, to reinforce the sense of arrival at a very fine mansion. It is as much a reflection of the Victorian prosperity, as is the confident and imposing frontage of the mansion itself. It tells the public ..... "Here lives a family of wealth and distinction".

The area selected for residential development in this eastern part has a coherent quality of landscaping as it forms the vital link between the main road entrance and the former mansion. To lose this integral part of the whole site is not justifiable. This area is totally unsuitable for residential development, in view of the unacceptable harm to the setting of this Listed Building and to the detriment of its own intrinsic quality and character of a well laid out parkland. There is no justification in allowing any encroachment into this very attractive and historic area. It needs to be retained and managed for its future landscape and community benefits.

Application 32/2013/13644:

The western site is well screened with riverside trees along Glusburn Beck and around the other sides with self-sown trees and bushes. It does not give the impression of being an integral part of the planned, more formal parkland setting. Its internal character is rather neglected and there are no objections to a housing scheme on this land, in relation to its visual, historic or landscape value, subject to it being necessary to bring in funding to help with essential repairs to this Grade II Listed Building. This part of the scheme could therefore be given consideration as enabling development.

In summary the Conservation Advisor concludes by stating that a strong, justifiable case has to be made for enabling development however only the western site should be considered for development to fund repairs to the Listed Building.

6.10 **Environment Agency:** The EA raise no objections to either application subject to either a condition or informative to ensure that the subsequent layout to be approved at reserved matters takes account of the risk of overland flows on both sites from the existing public sewer which has been identified in the FRA submitted by the applicant. Otherwise standard conditions are recommended in relation to a scheme for water attenuation and details of foul drainage from the sites.

6.11 **Yorkshire Water:** No objections to either application subject to conditions to prevent obstruction of the sewer that crosses the site, to ensure that the site has separate foul and surface water systems and that prior approval of the means of discharge of surface water will be required.

YW comment that the public sewer may be a material consideration in the determination of the application and advise of their requirements should the development require alteration or removal of the pipe. YW also comment that the Flood Risk Assessment submitted with the application is considered to be satisfactory.

6.12 **Natural England:** In response to both applications NE advises that there are no statutory nature conservation or Local Wildlife sites that would be affected by the proposals and that there are consequently no objections to the proposals in relation to this issue. With regards to protected species it is stated that in the case of the larger development site the proposals would be unlikely to affect bats and otters however an assessment for biodiversity should be undertaken.

An Ecological Appraisal undertaken by Ecological Consultants 'Envirotech' following assessments of both sites carried out on 5/10/2012 and 20/5/2013 has been submitted with the planning applications. The appraisal is comprehensive and of an acceptable standard and has been undertaken by suitably qualified persons and is considered to be in accordance with NE's standing advice. The appraisal outlines a number of recommendations for mitigation measures in relation to badgers, bats, birds, invertebrates, otters, reptiles and water voles. It is proposed that conditions be attached to secure the implementation of the proposed mitigation should planning permission be granted.

6.13 **Yorkshire Wildlife Trust:** The sites are close to the Yorkshire Wildlife Trust's River Aire Living Landscape and the beck adjacent to the development site leads to the River Aire. There is also very good habitat upstream from Malsis School. There will therefore be good

potential for connecting up habitat for wildlife as advised in the NPPF. The Ecological Appraisal by Envirotech and the arboricultural report for the site seems good and it is recommended that planning conditions are imposed to provide a fully costed ecological management plan to enhance the area for wildlife and a Section 106 agreement to fund the plan.

Some of the conclusions from the arboricultural report that a number of trees should be "crown cleaned" and have ivy removed could be in conflict with tree management for biodiversity. Dead wood, particularly standing dead wood is very valuable for invertebrates and cracks and rot holes will give opportunities for roosting bats. Recommend that the management of the trees is prioritised for biodiversity and included in the ecological management plan.

## 7. Representations

7.1 The following is a summary of the representations that have been received in response to each of the applications:

### Application 32/2013/13633:

32 comments in total 23 of which express support for the application and 9 raise objections.

### Application 32/2013/13634:

14 comments in total 9 of which express support and 5 raise objections.

Summary of letters of support (for both applications):

- Application will provide good quality housing.
- Will help to ensure the long-term future of the school and enable the school to continue to provide facilities for local sports clubs and local employment.
- Development will be well screened from both Corn Mill development and the main road and therefore will not detract from the visual amenity of the area.
- Proposal should be approved given the pressing need for further housing in Craven.
- Site is accessible to local amenities and facilities.
- The proposals are complimentary to and will build upon the adjacent development at the Corn Mill.
- The site is much larger than the school requires and is good use of surplus.
- Proposals will not impact upon the main school building or its setting.
- Proposals will ensure a secure future for the school and be an asset to the housing stock in the area.
- Plans are respectful of surrounding buildings and land.
- Increased use of school facilities would be of benefit to the wider community.
- It is important that school is retained as it contributes to mix of educational establishments in the area.
- Malsis has a reputation for producing famous personalities and this stream of talent needs to be allowed to continue.
- Even though MTB track will need to be shifted the site should be developed.
- Site will have no knock on effects on traffic or local facilities.
- Malsis School has occupied the Hall for almost 100 years and looked after the site and buildings. Their proposals to future proof the school should be supported.
- The school cannot relocate and needs to adapt its resources.

- The loss of Malsis School would be significant and put land in the hands of developers seeking a comprehensive new use for the whole site.
- Allowing development here will take pressure off more contentious sites in South Craven.
- Planning permission was granted in 2001 for a pre-preparatory school on the smaller site and therefore the principle of allowing development should be carried forward particularly as the site does not relate well to the rest of the grounds surrounding Malsis Hall.
- Proposals will lead to a continuation and expansion of employment in the area.

Summary of letters of objection (for both applications):

- Site will not be screened during winter months when trees are not in full leaf.
- Restrictions to natural light to proposed housing will create pressure to fell trees.
- Corn Mill development was opposed due to proximity to the beck and over-development of the village. It is incongruous that this now forms basis of developers' argument due to its proximity.
- MTB track impacts on privacy of neighbouring houses and increased use will give rise to increased noise, activity and anti-social behaviour.
- Proposals will give rise to adverse traffic impacts and highway safety issues. In particular access onto Colne Road will not cope with increased traffic from both development and increased community use.
- Impact on the adjacent fast flowing watercourse from run off and debris.
- Will the school retain responsibility for management of the woodland in the long term?
- Existing trees should be protected.
- There has been significant development in the Crosshills/Glusburn and Sutton area. Craven should produce a local plan and impact on this area should be considered.
- Developer has not defined their exact proposals for affordable housing. Area is already awash with properties for sale across all types, sizes and values.
- Development never seems to be directed towards the elderly, an increasing demographic in the area.
- There are no firm details of the proposals to make the schools facilities available to outside bodies.
- Development is too close to neighbouring housing and will adversely impact by virtue of noise, outlook and privacy.
- Increase in homes will put pressure on local schools.
- Developer is not providing any community facilities e.g. creche, mother and toddler groups or community building.
- Proposed housing will be out of character and inappropriate to the area.
- Brownfield sites should be developed in preference to open spaces.
- Money will be used on improvements to the building and will not be invested in the local community to use their facilities.
- Development on Green Lane has been approved for 50 houses. Neither village nor local roads can cope with 96 new households.
- Nuisance will be caused during building work.
- There are owls and other wildlife in the area.

- There will be noise and light pollution.
- Plans do not show the Corn Mill which is very misleading.
- Development will give rise to issues of flooding. Area has a history of flooding and this problem does not need to be exacerbated.
- Volume of houses is unacceptable.
- Local infrastructure needs an overhaul and cannot cope with increased use.
- Development is not sustainable and is likely to lead to further creeping urbanisation along Colne Road.
- The identity of the village will be lost.
- There is no demand for housing in the village of Glusburn.
- Proposal will result in the irreversible loss of a green field site.
- There are more appropriate sites for development within the village between existing settlements.
- Public transport is inadequate to support a larger population as there is a very limited bus service. Further development in the parish should be accompanied by a transport infrastructure review.
- Development is for benefit of the school which is invisible in the local community and does not open its facilities to visitors.
- Carr Head Lane site entrance for smaller development site is not safe as it is on a bridge and a bend and also has a poor visibility.
- Carr Head Lane is used by slow moving farm machinery near to smaller site entrance and is not cleared during winter months.
- Junction of Carr Head Lane and main road is an accident black spot.
- Smaller site had not passed consideration under Part 1 criteria of SHLAA.
- Development would only provide a short term solution and may hamper the future development potential of site.

## 8. Summary of Principal Planning Issues

- 8.1 Principle of development.
- 8.2 Impact on heritage assets/enabling argument (listed building)
- 8.3 Planning gain argument (community benefit of Malsis School remaining on the site / enhanced community use of sporting facilities/ affordable housing).
- 8.4 Impact on amenity.
- 8.5 Impact on highway safety.
- 8.6 Impact on trees.
- 8.7 Impact on ecology.

## 9. Analysis

### **PRINCIPLE OF DEVELOPMENT**

#### **Local Plan Policies:**

- 9.1 The application sites are located outside of development limits in an area of open countryside as defined in the Local Plan and therefore falls to be considered under Saved Local Plan Policy ENV1. Policy ENV1 would be prohibitive of residential development in open countryside and the development proposals are therefore not supported in principle under the relevant saved policy in the adopted Local Plan.



- 9.2 Notwithstanding the above the Craven District (Outside the Yorkshire Dales National Park) Local Plan was adopted in 1999 and whilst a number of policies within the Local Plan, including ENV1, were Saved in September 2007 (under the Secretary of State's direction under Paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004) they were not prepared under the said 2004 Act.
- 9.3 Paragraph 215 of the 2012 National Planning Policy Framework (NPPF) makes it clear that policies not adopted in accordance with the Planning and Compulsory Purchase Act (2004) need to be considered in terms of their degree of consistency with the NPPF, stating that "the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given." As such, where there is any conflict between the Local Plan and the NPPF, the Local Plan would carry limited or no weight, with the greater weight being given to the policies set out in the NPPF.
- 9.4 The main thrust of the NPPF is the overarching presumption in favour of sustainable development; i.e. the general acceptability of proposals against the stated *'three dimensions to sustainable development: economic, social and environmental'*. The NPPF sets out that it is the Government's clear expectation that Local Planning Authorities should deal promptly and favourably with applications that comply with up to date plans. Where plans are out of date (as with Craven's Saved Local Plan) there will be a strong presumption in favour of sustainable development that accords with National Planning Policy. So paragraph 14 of the NPPF indicates that development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
- Sustainability:**
- 9.5 As set out above, the NPPF makes it clear that there is an overarching presumption in favour of sustainable development and it is therefore necessary to consider this aspect of the proposal.
- 9.6 No single definition of the term is present in the NPPF but it does at paragraph 6 outline that the policies set out between paragraphs 18 to 219 *'taken as a whole, constitute the Government's view of what sustainable development in England means'* and it is therefore necessary to consider whether or not the proposals would contravene any of those identified NPPF policies.
- 9.7 In more specific terms the NPPF states at paragraph 55:  
*'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'*.
- It is also stated that LPA's should avoid *'new isolated homes in the countryside'*, although this may still be acceptable if special circumstances exist.
- 9.8 The larger application site is located in close proximity to the westernmost end of the Development Limits for Sutton and Glusburn as defined in the Adopted Local Plan. The Development Limits follow tightly the established pattern of development and therefore are confined to the northern side of Colne Road in this part of Glusburn terminating at the site of the Old Corn Mill which lies on the opposite side of Glusburn Beck from the easternmost point of the larger application site.
- 9.9 Whilst in terms of the expansion of the settlement boundaries the site would not be 'rounding-off' of the existing settlement or a form of in-fill development it can by no means be said to be isolated or unsustainable. Specifically, the site abuts a main road with bus links to larger settlements as well as the nearby shops and amenities in the Cross Hills service centre and is within walking or cycling distance of most amenities. The site is also within very close proximity of the outer edge of the Glusburn settlement boundary (Development Limits).

- 9.10 The smaller western site is located in a position that relates more to the existing school buildings and is more remotely situated relative to the established settlement area. In terms of sustainability the site has links through to the main road both via Carr Head Lane and through the school grounds to the main entrance and is not entirely isolated given that it is sited immediately adjacent to the school buildings and there are existing residential properties within close proximity. Notwithstanding, the site is unacceptably remote from the main settlement and therefore is not well located in terms of identifying sustainable new sites for housing development.
- 9.11 In summary it is considered that the eastern application site is in a sustainable location and, for the reasons outlined above, it is also considered that the proposal would constitute sustainable development. However, the smaller western site is considered to be unacceptably remote. In coming to these conclusions it is noted that there are other potential housing sites on the edge of the settlement that are closer to its centre or would contain the spread of development more so than these proposals and are therefore arguably in a more sustainable location than the application sites. Notwithstanding this, it remains the case that the eastern site is still considered to be sustainable and accordingly, development on this site is considered to be compliant with the NPPF in principle.

**Housing land supply:**

- 9.12 One of the objectives of the NPPF is to widen the choice of high quality homes and to significantly boost the supply of housing. Accordingly, the NPPF requires LPA's to identify and update annually a supply of specific deliverable sites for housing ensuring that there is sufficient to provide for a five year supply against local requirements.
- 9.13 At the time of compiling this report the Council's most recent Housing Position Statement (HPS) provides a summary of housing supply as at 22<sup>nd</sup> August 2013. The summary is based on an emerging housing target of 160 dwellings per annum which is a figure that is yet to be subject to full public examination and concludes that there is presently a shortfall of 29 dwellings assessed against a five year housing requirement of 960 dwellings throughout the district.
- Officer note:** A further HPS is likely to emerge in November 2013 but is not available at the time of compiling this report. It is likely that the shortfall identified above will be reduced
- 9.14 Nevertheless, the Council's emerging draft housing target of a minimum of 160 dwellings per annum could be subject to change through the local plan process and it is firmly considered that, at this stage in the local plan making process, that the Council is not in a sufficiently robust position to demonstrate that a NPPF compliant five year land supply is currently in place. In particular, it has been demonstrated in appeals nationally that despite the revocation of the RSS the evidence base used to inform it remains a material consideration. The regional evidence base for the RSS for Yorkshire and Humber identified a higher annual housing figure for Craven (180 dwellings pa) than the current emerging housing target which therefore leaves the evidence base open to challenge until resolved through the Local Plan Process.
- 9.15 On the basis of the above therefore, it is concluded that the Council could not sustain a refusal of this application based upon the issue of housing land supply.

**Summary:**

- 9.16 In conclusion (in relation to the principle of development) where plans are out of date (as with Craven's Saved Local Plan) and where a 5 year housing supply cannot be demonstrated, there is a strong presumption in favour of sustainable development that accords with the National Planning Policy Framework. With respect to the eastern site there may be other sites on the edge of the settlement of Glusburn that the Local Planning Authority would prefer to be released first for housing development, but it remains the case that this site is considered to be sustainable and in accordance with the NPPF in principle. It is therefore recommended that with respect to the eastern site as the Council cannot demonstrate a 5 year supply of deliverable housing sites and as the site proposed under these applications is likely to be available for development and delivered within a 5 year

period the development proposal should be accepted in principle. However, for reasons explained earlier in the report, the westernmost site is considered to be more remotely located from the settlement of Glusburn and even allowing for the absence of a defensible 5 year housing land supply it is recommended that development on this site can be resisted in principle.

#### **IMPACT ON HERITAGE ASSETS/ENABLING ARGUMENT (LISTED BUILDING):**

- 9.17 The advice of the NPPF is that when determining planning applications that have conservation elements to consider it is necessary to take account of:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic activity; and
  - The desirability of new development making a positive contribution to local character and distinctiveness.
- 9.18 More specifically the NPPF requires that in assessing planning proposals that may affect heritage assets it is necessary to understand the significance of the heritage asset and to consider whether any harm to that significance would arise as a result of development. The NPPF makes it clear that the more important a heritage asset is the greater the weight that should be given to its conservation and that any harm that may arise should require clear and convincing justification. It also states that substantial harm to a Grade II listed building, park or garden should be exceptional but nevertheless sets out that it is appropriate for local authorities to weigh up the potential benefits of development proposals against any harm that may arise as a result of development.
- 9.19 In this case there are three heritage assets comprised of Malsis Hall, the gatehouse lodge and the gate piers and railings across the main site frontage all of which are Grade II listed. The significance of the assets is principally that they form part of the School and its grounds which is characterised by the imposing former mansion house of Malsis Hall. The hall is set within an extensive landscaped parkland setting and it is reasonable to assess the historic parkland setting as being an element that contributes to the significance of the heritage assets to a substantial extent. The proposals do not seek any alterations to the heritage assets themselves and therefore any impact that would arise would be to the setting of the heritage assets and it is this aspect of the development proposals that needs consideration. Officer Note: Any future repair works to the listed building that is funded by enabling development may require a separate application for listed building consent from the Local Planning Authority.
- 9.20 The undertaking of development that affects the setting of heritage assets is acceptable in principle and the NPPF recommends that local authorities look for opportunities for new development within the setting of heritage assets *'to enhance or better reveal their significance'*. In this case it is clear from the advice of both the Councils conservation advisor and English Heritage that the proposed larger development to the grounds at the eastern end of the school would have an adverse impact on the setting of the listed building as it would substantially alter the character of the historic landscape and grand entrance to the school. Specifically, development of the school grounds would remove an area of landscaping that forms a vital link between the main road entrance and the grade II listed former mansion grounds and therefore it is clear that the proposals (in respect of the larger application site) fail the NPPF criterion set out above.
- 9.21 Both the conservation advisor and English Heritage consider that the smaller site to the west of the school is of no great significance and can be developed without detriment to the setting of the listed building and other heritage assets as it is so well screened and has no intrinsic historic significance. On this basis therefore it is not considered that the application

for the smaller site does not raise any issues in relation to the setting of the heritage assets.

9.22 With regards to the larger application site it can be concluded that the effect on the significance of Malsis Hall i.e. the parkland setting, is such that the proposals would not accord with the NPPF and are therefore unacceptable. However, in line with NPPF policy it is also necessary in this instance to consider the potential benefits of development and come to a view whether or not the benefits would outweigh the adverse impacts.

9.23 In this case the applicants have identified the need for extensive and costly repair works on the Grade II listed Malsis Hall amounting to £450,000. The applicants have set out an argument in favour of development which proposes that proceeds from the sale of the development land be used to carry out the required repair works and propose that any planning permission be subject to a legal agreement requiring the necessary works to be carried out. The English Heritage policy statement 'Enabling Development and the Conservation of Heritage Assets' sets out the policy requirements for such enabling development stating that:

*'Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless:*

- a. It will not materially harm the heritage values of the place or its setting*
- b. It avoids detrimental fragmentation of management of the place*
- c. It will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose*
- d. It is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid*
- e. Sufficient subsidy is not available from any other source*
- f. It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests*
- g. The public benefit of securing the future of the significant place through such enabling development decisively outweighs the dis-benefits of breaching other public policies.*

9.24 Considering the above policy statement it is clear that the proposed enabling development is a material planning consideration. The English Heritage policy statement very comprehensively sets out the processes for enabling development and also the requirements for making an application and the matters which the local authority should take into account when reaching its decision. Put simply there has to be a compelling case and a clear need for the development, the application should not be in outline form and clearly define the impact of development and should be fully costed with clear, precise figures that demonstrate that the enabling development is the minimum necessary to achieve the objectives in relation to the heritage asset. In addition the adverse impacts should be tolerable when weighed against the benefits of development.

9.25 It is clear that the listed buildings are in need of repair and the development would provide a means for the applicants to secure funding in order to undertake those repairs. A legal agreement can be used to ensure that no development could take place without the repair works being carried out. However, the application fails in very significant respects in that it is in outline form only and has no specific detail for the local authority to consider in terms of the necessity of the works to repair the listed building and the associated costs of repairing it. Without this information it is not possible to assess the extent of enabling development required to repair the listed building. The reality is that the application does not meet the policy requirements laid down by English Heritage and could therefore justifiably be refused.

9.26 Notwithstanding the above, English Heritage have commented that despite the fact that development on the eastern site would cause unacceptable harm to the setting of heritage assets that there is justification for an enabling argument in this case and that outline

planning permission can be granted subject to the proviso that any permissions are linked by enforceable means to the repair of the heritage assets according to an agreed schedule of repair. Furthermore, English Heritage's response indicates that any development allowed should be the minimum development necessary to secure the repairs to the listed building. It should be noted that English Heritage's response is contradictory to their own policy advice and is an exceptional recommendation having regard to the applicants' particular circumstances.

9.27 It could be argued that the school site could be occupied by another user who may be better able to assure the protection of the heritage assets. However, Malsis School have had a long association with the site of Malsis Hall having been custodians of the site for over 100 years and are undoubtedly part of the heritage of the site and therefore a planning permission that enables the school to raise the finance to maintain the buildings is supported by Officers.

9.28 There are issues regarding the lack of detail in the application and any planning approval would need to be clear that subsequent development will need to be subject to detailed financial appraisal which will need to be independently assessed and that reserved matters approval would only be forthcoming if the detailed planning is acceptable in terms of the setting of the heritage assets and the minimum necessary to achieve the finances required to effect repairs to the heritage assets. Given that English Heritage have accepted the enabling argument in this case and are recommending that outline planning permission is granted it is considered that on balance approval of this application can be justified on the basis of enabling development.

**PLANNING GAIN ARGUMENT (COMMUNITY BENEFIT OF MALISIS SCHOOL REMAINING ON THE SITE / ENHANCED COMMUNITY USE OF SPORTING FACILITIES/ AFFORDABLE HOUSING).**

9.29 Notwithstanding the enabling argument which applies only to the conservation of heritage assets the case put forward by the applicants relates also to providing additional funding to resolve the schools financial difficulties. This aspect of the proposals is considered in the next part of the report.

9.30 The appellants' case also relates to elements of planning gain that would accrue should development be allowed to take place. These are:

- i) the community benefit of Malsis School remaining on the site
- ii) community use of the school facilities
- iii) the provision of affordable housing

**Planning gain argument (community benefit of Malsis School remaining on the site)**

9.31 In respect of the first issue the applicants argue that the school is a local employer and has ties with and benefits to the local community. These are set out at paragraph 2.18 above and essentially the argument put forward is that development would allow the school to resolve its financial problems and remain on-site where it would continue to be of benefit to the local community.

9.32 The community benefits that the school brings and the desirability of ensuring its future are noted and are of relevance to the planning decision. However, it is not considered that development beyond that which is necessary to secure the finance to repair the listed building should be supported. There are sound reasons why development on both of these sites should be resisted. The reasons on the eastern site are the impact on the setting of heritage assets and potentially the loss of playing fields (addressed later in the report) and on the western site the land due to its unsustainable location is considered in principle to be unacceptable for residential development. It is firmly considered that the community benefits being offered do not outweigh this planning harm and if any development is to be approved it should only be that necessary to secure the finance to repair the listed building. Furthermore, the ability of the Council to ensure that this community benefit is realised is very difficult to control. For example, following an approval of planning permission and sale of the land the school could still face closure. It is therefore recommended that no more

development should be allowed on the sites than is required to finance the repair of the Listed Buildings.

### **Planning gain argument (enhanced community use of sporting facilities)**

- 9.33 The application as originally presented by the applicants explains that the school can offer benefits by enhancing community access to its existing sporting facilities and furthermore that through returns on the sale of the land that these sporting facilities can be further enhanced and community access provided.
- 9.34 Sport England has however objected to the application as the eastern site is considered to be land allocated for use as a playing field and the proposal is for the development of this land. Sport England has advised that the Council cannot approve the application contrary to its objection unless the application is referred off to the National Planning Casework Unit for final consideration
- 9.35 Sport England has indicated that it may withdraw it's objection subject to a S106 planning obligation that provides further precision in the following areas: -
- Timing of the completion of the proposed sports improvements relative to key stages / milestones in the residential development
  - Specification / detail of the proposed new / enhanced sports facilities e.g. football / sports pitches (constructed and drained in accordance with Sport England's design guidance 'Natural Turf for Sport'? Football pitch sizes to conform with the FA guidelines?)
- 9.36 In Officers opinion, the enhanced community access to sporting facilities that is being offered is therefore not a significant planning gain to the community in its own right (as suggested by the application submission), but is instead a necessary requirement to address the objections raised by Sport England to the loss of land with an authorised sporting use.
- 9.37 It has to be noted that if the Planning Committee agrees with officer recommendation (i.e. accepting that only enabling development necessary to secure the contribution for repairs to the listed building should be approved and that additional development to help resolve the schools financial problems should not be allowed) then there would be no capital return to the school (other than the funds to repair the listed building) that would be available to provide the additional sporting improvements that they offering public access to. Furthermore some of the improvements being offered have not yet been built and may need planning permission to be built. There is therefore doubt that the school will be able to offer sufficient sporting improvements to overcome the objection from Sport England.
- 9.38 In conclusion the issue remains unresolved. Members are recommended that if they are mindful to approve the application that they give delegated authority to officers to grant approval subject to the requirement that officers do not release the approval until such a time as Sport England has formally confirmed they have withdrawn their objection as satisfactory alternative provision has been secured to mitigate for the loss. In the event that this cannot be achieved the application would be returned to the planning committee for further consideration.

### **Planning gain argument (Affordable Housing)**

- 9.39 The final element of planning gain relates to the provision of affordable housing. The applicants have a signed pro-forma and have agreed to the provision of 40% affordable housing in line with the Councils policy requirements subject to a financial viability appraisal. Notwithstanding, it is very clear that the applicants do not expect that financial viability will ultimately support the provision of a full 40% of affordable housing at reserved matters stage. The applicants also ask that the monies required to resolve the schools financial problems should be taken into account in the financial viability assessment and this will reduce the amount of affordable housing that can be provided.

- 9.40 At this stage both of the planning applications are supported by the CDC Strategic Housing Team who advise that it will be necessary to assess the overall provision and location of affordable housing at the reserved matters stage at which time a full financial viability appraisal will need to be undertaken. In effect they have no objections subject to the imposition of a condition to secure affordable housing and the precise details of the extent of the contribution required would be resolved at the reserved matters stage when a fuller understanding of both the scheme the site economics would be available
- 9.41 As already stated in the report English Heritage comment that the proposed development on the eastern site causes unacceptable planning harm due to the impact on the setting of heritage assets. Furthermore in Planning Officers opinion residential development on the western site should not ordinarily be accepted due to the unsustainable location. As previously explained, it is therefore recommended that enabling development to secure funding for repairs to the listed building should be allowed, despite the aforementioned planning harm, so long as no more development is authorised than is absolutely necessary to repair the listed building. Requiring the site to make a contribution to affordable housing provision would require a greater amount of new development to be undertaken to provide the subsidy for the affordable housing provision. As more development on the eastern site would cause further unacceptable harm to the setting of heritage sites it is recommended in this exceptional circumstance that the affordable housing contribution is not sought on either site. The absence of affordable housing provision on these sites would therefore help ensure the extent of new enabling development is minimised to the benefit of protecting the setting of listed buildings.
- 9.42 It is appreciated that such an approach is unusual and furthermore it is noted that Affordable Housing provision is a Council Priority. This is however an unusual circumstance. English Heritage is naturally supportive of this approach and has encouraged it, but this recommendation is not in accordance with the wishes of Strategic Housing.

#### **IMPACT ON AMENITY**

- 9.43 Although the applications are in outline form it is clear that the intention would be to construct traditional two storey properties of a vernacular design located within the parameters of the identified application sites.
- 9.44 In the case of the larger (eastern) site this would be screened and any development on the site could easily be accommodated without detriment to the amenities of the existing neighbouring development at The Old Corn Mill, Mill Bridge or opposite the site on Colne Road. Specifically, the site would allow for adequate interface distances to be provided which can be considered in detail at reserved matters stage and therefore the amenities of existing residents could be protected. Concerns have been raised by nearby residents regarding the visual impact of any future development however, it is not considered that this would constitute grounds for refusal of planning permission as much of the existing vegetation and tree planting is to be retained which will ensure that any new development, together with new planting where appropriate, will be largely screened from view. In terms of outlook it is not considered that development of the site would impact on neighbouring properties to a sufficient extent to warrant refusal of planning permission.
- 9.45 The smaller (western) site is extremely well screened, set on a lower level than the site surroundings including the main road and would have no impact in terms of amenity on any other residential property. The site would lie within close proximity to the school buildings but this is not considered to be an issue that would justify refusal of planning permission on the grounds of loss of amenity.

## **IMPACT ON HIGHWAY SAFETY**

- 9.46 The proposed access arrangements comprising two access points are considered to be acceptable in highway safety terms. No objections have been raised by NYCC Highways subject to compliance with the standard conditions set out below and it is noted that the application (following revised details agreed with the Highways Engineer) incorporates visibility splays to the Carr Head Lane site entrance to the specifications of the highways authority.
- 9.47 Additionally, Highways have suggested that the main school estate access road should be brought up to adoptable standards where it will be required to service the proposed new development. From a purely highways perspective this seems to be a sensible proposal, however there may be impacts for mature trees either side of the access road and also any solution would also need to have an acceptable visual impact and be sensitive to the significance of heritage assets. Whilst further investigation is clearly needed on this matter it is not considered that this is an insurmountable problem.
- 9.48 Concerns raised by objectors regarding the suitability of the road for additional development, in particular the traffic that would be generated by that development, are not shared by the Highways Engineer and it is not considered that a refusal of planning permission on the grounds of highway safety could be justified.
- 9.49 The Highway Authority has requested a number of conditions some of which are not considered to be reasonable or necessary. In particular, there is a request for bus stop infrastructure, but it is not considered reasonable to require this particularly given that it is envisaged that the extent of enabling development the Council would expect to be undertaken would be significantly less than that indicated in the indicative layout. Furthermore, a request is also made for a travel plan. Even if development of the scale envisaged by the applicants was to be forthcoming it is not considered that there is sufficient justification to require a travel plan for a development of this relatively small size and scale.

## **TREES**

- 9.50 None of the trees within or immediately adjacent to either of the application sites are subject to preservation orders but are nevertheless important in the context of the setting of the listed buildings and historic parkland. A tree survey has been submitted with the planning applications stating that some minor works are required to a small number of trees and that there are two trees to be removed on the eastern site. However, the majority of the trees would remain entirely unaffected by the proposals.
- 9.51 It is considered that both application sites are capable of being developed without detriment to any of the trees on site and that the full extent of any impact on trees can be considered in detail at reserved matters stage.

## **ECOLOGY**

- 9.52 The submitted ecological appraisal is considered to be of an appropriate standard and to have been undertaken by competent professional persons who meets the standards required by Natural England. The conclusions of the appraisal are not questioned by Natural England and set out a series of mitigation measures in respect of various species which are considered to be acceptable in planning terms. The Yorkshire Wildlife Trust has also commented that the ecological appraisal seems to be good, but has recommended that a S106 Planning Obligation is necessary to secure the delivery of the requirements of the plan. In officers opinion this is not necessary and can be controlled through planning conditions. It is concluded therefore that subject to appropriate planning conditions the development proposals on both application sites are acceptable in terms of impact upon ecology.

## **OTHER ISSUES**

- 9.53 The eastern site is of some archaeological interest, particularly adjacent to the pond and Colne Road where a Hall dating from late medieval period or earlier previously stood.



North Yorkshire County Council would prefer the archaeological significance and suitability of this site for housing to be investigated first before any planning permission is granted, however they would reluctantly accept the imposition of a planning condition to secure the necessary archaeological investigations.

- 9.54 Subject to the imposition of conditions neither the Environment Agency nor Yorkshire Water have objected with respect to drainage matters. Some small parts of both application sites are also identified as areas of high flood risk, but this could be accounted for in the layout of the final scheme for the sites.

**OVERALL SUMMARY:**

- 9.55 The planning merits of these development proposals and the assessment of them is unusually complex. The following conclusions can be drawn about the acceptability of the planning applications: -
- a) Residential development is not acceptable on the larger eastern application site (planning ref. 32/2013/13633) as the proposed residential development will cause unacceptable harm to the setting of heritage assets (Listed Buildings). Objections to this effect have been made by both English Heritage and the Council's own Conservation Advisor.
  - b) Residential development is not acceptable on the smaller western application site due to its isolated unsustainable location remote of the main settlement. The development is therefore considered to be contrary to advice within the National Planning Policy Framework.
  - c) Planning Officers recommend there is a legitimate case for enabling development on these sites (i.e. new housing development) that would allow for the financing of repairs to the listed buildings that could not otherwise be funded. English Heritage is supportive of this approach so long as the extent of development proposed is the minimum necessary to fund the listed building repairs. Therefore, as both developments are unacceptable for the aforementioned reasons and would ordinary be refused planning permission, any development that is allowed should be absolutely no more than is necessary to finance the repairs to the listed buildings.
  - d) If outline permission is granted a reserved matters application will need to be accompanied by a full financial assessment that informs the extent of development proposed and demonstrates that the enabling development is the minimum necessary to fund the repairs to the listed buildings.
  - e) The applicants have indicated that they expect to make a financial return from the sale of the land to help offset existing cash flow issues and argue this is a legitimate planning aim due to the benefits that the school bring (e.g. social and economic benefits). Whilst the benefits the school brings are a relevant consideration, achieving a financial return from the sale of the land to assist with the schools financial issues would necessitate more development being undertaken on the site and therefore more significant permanent harm to the heritage assets. It is therefore recommended that no further development should be allowed than that required to achieve the funding for the repairs to the listed building and this would mean that it is unlikely there would be a financial return to the school through the sale of the land (other than the obvious benefits resulting from funding to carry out the necessary repairs to the listed building). In reaching this decision it is noted that there is no guarantee that a financial return to the school would allow it to continue to operate, but there is certainty that that the additional development that would have to be undertaken to finance the return would have a permanent detrimental impact on the heritage asset. It is therefore recommended that minimising the impact on the heritage asset should be the prime consideration and therefore no more development should be allowed than is necessary to finance the repairs to the listed buildings.

- f) If the Council's usual affordable housing requirements are required on these sites this would require a greater extent of development on the land to subsidise this provision. As more development would cause further harm to the setting of the heritage assets it is recommended in this exceptional circumstance that the affordable housing contribution is waived (to ensure that the absolute minimum necessary development is undertaken to secure the funding for repairs). It is therefore recommended that no affordable housing requirement is sought.
- g) Insufficient information has been submitted with this outline application to justify with certainty that the £450,000 of works proposed to repair the listed building is essential and appropriately costed. Whilst it is strongly suspected that this justification exists, this does need to be established with certainty before the Council approves the application and allows enabling development to fund repair works that would cause harm to the setting of the buildings.
- h) Sport England has objected to the development as the eastern site is considered to be land allocated for use as a playing field and the proposal is for the development of this land. Sport England has advised that the Council cannot approve the application contrary to its objection unless the application is referred off to the National Planning Casework Unit for final consideration. They have indicated that they may remove their objection should alternative sporting benefits offered by the school be acceptable and appropriately secured. However at this stage the alternative benefits that are being offered and that which can be offered are uncertain and therefore Sport England has maintained its objection.

9.56 In conclusion it is recommended that outline planning permission should be granted subject to: -

- 1. Any permission being explicitly on the basis that the development that would be allowed under any reserved matters application would be the absolute minimum enabling development that has been demonstrated as necessary to finance the repairs to the listed buildings, and
- 2. Confirmation being received from Sport England that they have withdrawn their objection as alternative sporting provision is being provided and appropriately secured to offset the playing fields lost through the proposed development.

## 10. Recommendation

- 10.1 Members are first recommended to resolve that both development proposals on their ordinary planning merits are unacceptable as residential development is not acceptable on the larger eastern application site (planning ref. 32/2013/13633) as it would cause unacceptable harm to the setting of heritage assets (Listed Buildings), and residential development is not acceptable on the smaller western application site (planning ref. 32/2013/13633) due to its isolated unsustainable location remote of the main settlement and therefore the proposal is contrary to the National Planning Policy Framework.
- 10.2 Members are then recommended to accept that both development proposals are acceptable as 'enabling development' to secure urgent repairs to listed buildings and give delegated authority to officers to approve the applications subject to: -
  - a) Confirmation being received from Sport England that they have withdrawn their objection as acceptable alternative sporting provision is being provided and appropriately secured to offset that lost through the proposed development (in the event that the objection is not withdrawn the application will be returned to planning committee for a decision on whether members wish to maintain their support for the scheme).

- b) Officers first obtaining a satisfactory detailed assessment and schedule of the urgent repair works required to the grade II listed heritage assets on the site quantifying the extent of the works needed and the cost of the works.
- c) A section 106 planning obligation being signed to secure:
  - i) The provision of the funding for the repair works to the listed buildings including the means and timescales by which the enabling funds will be allocated to the repair works and a programme for the implementation of the necessary repairs.
  - ii) The provision of approved alternative sporting provision to compensate for that lost through the development (e.g. through increased public access to on-site sports and leisure facilities by way of the completion of a community use agreement).

Conditions

**Application 32/2013/13633:**

1. No development shall take place without the prior written approval of the Local Planning Authority of all details of the following reserved matters:
  - (a) Appearance
  - (b) Landscaping
  - (c) Layout
  - (d) Scale

Thereafter the development shall not be carried out otherwise than in strict accordance with the approved details.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004 and to safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

2. An application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.
3. The development hereby permitted shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason (for 2 and 3): To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

4. The development hereby permitted shall not be carried out other than wholly within the site boundaries identified on Drawing Nos SK001 Revision B (Development Plan) and in accordance with 11119/AB (Tree Constraints Plan) received by the Local Planning Authority 30<sup>th</sup> August 2013.

Reason: To specify the terms of the permission for the avoidance of doubt.

5. The details to be submitted in accordance with condition 1 above shall include all buildings facing and roofing materials and finishes, surface material finishes for the highways, footpaths, drives and other hard surfaces, screen walls, fences and other means of enclosure (including the boundary treatments to the boundaries of the site), existing and proposed ground levels, proposed finished

floor levels, building heights and landscaping proposals. Reason: To ensure the delivery of an acceptable development and facilitate community involvement and informed decision making as set out in the National Planning Policy Framework.

6. Unless otherwise approved in writing by the local planning authority (LPA) there shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to an approved in writing by the LPA:
  - (1) Detailed engineering drawings to a scale of not less than 1:250 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 surfaces, kerning and edging
  - (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.
  - (9) 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 in consultation with the Highway Authority.
7. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is 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 in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason (for 5 to 7): In accordance with Saved Local Plan Policy T2 and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

8. 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:
  - (i) The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.
  - (ii) *The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6.*
  - (iii) Any gates or barriers shall be erected a minimum distance of **5 metres** back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
  - (iv) That part of the access(es) extending **5 metres** into the site from the carriageway of the existing or proposed highway shall be at a gradient not exceeding **1 in 20**.
  - (v) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway shall be constructed in accordance with the approved details, and/or the specification of the Highway Authority and maintained thereafter to prevent such discharges.
  - (vi) The final surfacing of any private access within **5 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.
  - (vii) Provision of tactile paving in accordance with the current Government guidance.

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

Reason: Changes to the General Permitted Development Order were specifically brought in during October 2008 to prevent newly hard surfaced front gardens, resulting in flooding problems and surcharging public sewers. Discharging water from newly hard surfaced drives to public sewers should therefore be avoided where possible.

9. 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 **60m looking east & 100m looking west** measured along both channel lines of the major road **A6068** from a point measured **2.4m** down the centre line of the access road. The eye height will be **1.05m** and the object height shall be **1.05m**. Once created, these visibility 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 estate road and the individual houses (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the house access and the back edge of the footway of the estate road have been provided. The eye height will be 1.05 metre 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.

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 building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- (i) *tactile paving*
- (ii) *vehicular, cycle, and pedestrian accesses*
- (iii) *vehicular and cycle parking*
- (iv) *vehicular turning arrangements*
- (v) *manoeuvring arrangements*
- (vi) *loading and unloading arrangements.*

12. 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 in consultation with the Highway 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 in consultation with the Highway Authority agrees in writing to their withdrawal.

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

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

14. 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 in consultation with the Highway Authority. Thereafter the approved routes shall

be used by all vehicles connected with construction on the site.

Reason (9 to 14): In the interests of highway safety and the general amenity of the area.

15. No development shall take place until a scheme for the disposal of foul and surface water drainage based upon sustainable drainage principles including details of any balancing works, off-site works and mitigation against the risk of overland flows on the site have been submitted to an approved in writing by the local planning authority. The development thereafter shall be implemented in accordance with the approved scheme.

Reason: To ensure that the site is properly drained.

16. Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved drainage works.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

17. No development approved by this permission shall take place until it has been demonstrated that the final proposed layout has been designed with consideration of overland flow routes.

Reason: To reduce the risk of flooding to the proposed development and future users.

18. No development approved by this planning permission shall take place until such time as a scheme to attenuate surface water runoff to the Greenfield rates as set out in the FRA, has been submitted to, and approved in writing by, the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

19. Where appropriate the development shall not take place or be completed until all mitigation measures set out in the Ecological Appraisal undertaken by Envirotech and submitted to the Local Planning Authority on 30th August 2013 have been carried out.

Reason: To ensure that relevant ecological considerations are properly addressed in the interests of the protection of wildlife and to ensure that the amenity value and significance of the local ecology is retained.

20. No development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

21. The details submitted in pursuance of Condition no. 23 shall be preceded by the submission to the Local Planning Authority for approval in writing, and subsequent implementation, of a scheme of archaeological investigation to provide for:

(i) The proper identification and evaluation of the extent, character and significance of archaeological remains within the application area

(ii) An assessment of the impact of the proposed development on the archaeological significance of the remains

(iii) Proposals for the preservation in situ, or the investigation, recording and recovery of archaeological remains and the analysis and publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever possible.

The proposals shall be approved in writing by the local planning authority and implemented before any development authorised by this permission shall commence.

Reason: The site is of archaeological importance.

**Application 32/2013/13634:**

1. No development shall take place without the prior written approval of the Local Planning Authority of all details of the following reserved matters:
  - (a) Appearance
  - (b) Landscaping
  - (c) Layout
  - (d) Scale

Thereafter the development shall not be carried out otherwise than in strict accordance with the approved details.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004 and to safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

2. An application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 2 years from the date of this permission.
3. The development hereby permitted shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason (for 2 and 3): To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

4. The development hereby permitted shall not be carried out other than wholly within the site boundaries identified on Drawing No:s SK001 Revision B (Development Plan) and in accordance with 11119/AB (Tree Constraints Plan) received by the Local Planning Authority 30<sup>th</sup> August 2013 and the amended Access Arrangement Plan (drawing 7239/01) dated 24 September 2013.

Reason: To specify the terms of the permission for the avoidance of doubt.

5. The details to be submitted in accordance with condition 1 above shall include all buildings facing and roofing materials and finishes, surface material finishes for the highways, footpaths, drives and other hard surfaces, screen walls, fences and other means of enclosure (including the boundary treatments to the boundaries of the site), existing and proposed ground levels, proposed finished floor levels, building heights and landscaping proposals.

Reason: To ensure the delivery of an acceptable development and facilitate community involvement and informed decision making as set out in the National Planning Policy Framework.

6. 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:



- (i) 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 or proposed highway.
  - (ii) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway shall be constructed in accordance with the approved details, and/or the specification of the Highway Authority and maintained thereafter to prevent such discharges
7. 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 **60 metres westerly & 100m south easterly** measured along both channel lines of the major road **Carr Head Lane** from a point measured **2 metres** down the centre line of the access road. The eye height will be **1.05m** and the object height shall be **1.05m**. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason (6 and 7): In the interests of highway safety and the general amenity of the area.

8. No development shall take place until a scheme for the disposal of foul and surface water drainage based upon sustainable drainage principles including details of any balancing works, off-site works and mitigation against the risk of overland flows on the site have been submitted to an approved in writing by the local planning authority. The development thereafter shall be implemented in accordance with the approved scheme.

Reason: To ensure that the site is properly drained.

9. Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved drainage works.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

10. Where appropriate the development shall not take place or be completed until all mitigation measures set out in the Ecological Appraisal undertaken by Envirotech and submitted to the Local Planning Authority on 30th August 2013 have been carried out.

Reason: To ensure that relevant ecological considerations are properly addressed in the interests of the protection of wildlife and to ensure that the amenity value and significance of the local ecology is retained.

Informative (for both applications).

1. This planning permission has only been granted on the basis that the development would secure a method to finance repairs to the listed buildings at Malsis School. Development that would be allowed under any reserved matters application would be the absolute minimum enabling development that has been demonstrated as necessary to finance the necessary repairs.

Statement of Positive Engagement: -

In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF.

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**WARD AND****APPLICATION No.****PROPOSED DEVELOPMENT AND SITE ADDRESS**

SKIPTON EAST  
63/2013/13949

CONSTRUCTION OF NINE NEW DWELLINGS

HIGH TREES, RECTORY LANE, SKIPTON.

APPLICANT NAME: JN Bentley Ltd

TARGET DECISION DATE: 25/11/2013

CASE OFFICER: Mark Moore

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**This application is being referred to the Planning Committee as it is a revised re-submission of an application that was formally considered by the Committee and refused planning permission. The previous submission was for 10 dwellings and was therefore a major application. The revised re-submission now seeks approval for 9 dwellings and is no longer considered to be major development.**

1. Site Description

- 1.1 'High Trees' is a substantial detached dwelling of a modern design which dates from the 1960's and is set within spacious grounds to the north-east of the town centre of Skipton.
- 1.2 Vehicular access to the property is directly from Rectory Lane. The house has been substantially extended over the years and there is a detached building that houses an indoor swimming pool in the grounds that was constructed in the 1970's. The large garden contains mature trees and shrubs.
- 1.3 The site has a frontage along its western side onto The Bailey and Rectory Lane, but is for the most part enclosed by development to the remaining boundaries comprising; new detached residential development to the east and north ('The Paddock'); single storey sheltered bungalow accommodation and a new detached two storey dwelling to the south (on Princes Drive) and older traditional buildings comprising The Rectory and Rectory Cottage to the south and west.
- 1.4 On the other side of Rectory Lane are 3 & 5 the Bailey which are an attractive pair of stone built traditional buildings. On the opposite of the Bailey, approximately 10-12 metres from the application site, is the boundary wall to Skipton Castle. Skipton Castle and some other individually listed structures at the castle are Grade I listed buildings. The castle wall itself is individually listed as a Grade II structure and the listing description is set out below:
- Southern and eastern boundary wall at Skipton Castle, The Bailey, Skipton. Probably various dates from medieval onwards. Random stone, about 10 ft. high, with flat capping. Extends from gatehouse for about 250 metres alongside The Bailey, then turns north-westwards to the cliff edge above the river. Group Value.*
- 1.5 The site is located within the development limits and Conservation Area of Skipton. All trees on the site are protected by virtue of their location within the conservation area and there are also two separate tree preservation orders on the site (Nos: 150 & 151/2006).

2. Proposal

- 2.1 This proposal seeks full planning permission the erection of 9 properties comprising:-
- 4 x 3 bed terraced dwellings.
  - 1 x 4 bed detached with attached single garage.
  - 2 x 4 bed semi-detached with attached single garage.
  - 1 x 5 bed detached with attached double garage.
  - 1 x 5 bed with detached single garage.

It is proposed to install solar panels on the roofs of the semi-detached and terraced houses.

- 2.2 It is proposed to undertake works to alter the access from Rectory Lane and in doing so close off the existing access to the adjacent properties, The Rectory and Rectory Cottage. A new access point to those properties would be provided off the proposed estate access road using a shared access onto Rectory Lane.
- 2.3 The proposed housing would be fairly traditional being a gable ended design constructed in stone with stone window and door surrounds, blue slate roofs and timber window frames/doors. Heights to the ridges of the properties would be approximately 8.5m falling to 5.5m at eaves level other than the detached property immediately adjacent to the site entrance. This has been designed to represent the characteristics of a lodge house and to respond to the two principle elevations it would present onto Rectory Lane and the proposed estate access road. This property therefore differs in character to the others featuring a hipped roof set at a slightly lower height of approximately 8m (maximum) falling to 5m at eaves level.
- 2.4 The application is a revised re-submission in response to the Council's concerns regarding the overall density and scale of the previous scheme and also over the potential impact on the protected trees both on site and on adjoining land.
- 2.5 In summary the main changes are a reduction in the number of dwellings (from 10 to 9), re-configuration of the layout to improve the space around the buildings, increased distances to the trees and the creation of larger gardens, revised access details (now shared with neighbouring properties), better road/parking layout and a re-design of the proposed housing, principally the house immediately adjacent to the access at Plot 1.
- 2.6 Due to the large number of protected trees on the site the application has been accompanied by an arboricultural method statement (Sept. 2013).
- 2.7 The submitted plan indicates that a total of 13 trees would be removed across the site (of various sizes). The arboricultural statement however identifies a total of 30 trees for removal although this assessment includes a number of species such as cherries and more ornamental varieties which are not considered to be significant.
- 2.8 It is proposed to provide new tree planting comprising beech, oak and lime (26 in total) which would be planted in mixed groups amongst the trees situated along the Rectory Lane frontage.

### 3. Planning History

- 3.1 63/2006/6601: Construction of 5 houses and garages. Refused September 2006.
- 3.2 63/2006/6899: Construction of 4 houses and detached garages (Outline permission for siting and access). Approved December 2006.
- 3.3 63/2013/13490: Conservation area consent for demolition of the existing buildings on site. Granted June 2013. This consent is conditional upon planning permission being granted for the re-development of the site.
- 3.4 63/2013/13482: Demolition of existing detached dwelling, garage and swimming pool and the construction of 10 new properties with garaging and solar pv panels. Access improvement works from Rectory Lane. Refused July 2013 for the following reasons:
  1. *It is considered that the proposals would represent an over-development of the application site which would not be of a scale, density or massing that would relate satisfactorily to the constraints of the site or to its surroundings. In terms of the surroundings the development site has very distinct characteristics that do not lend themselves to development which in this case would appear better suited to a more urbanised location. The Grade II Listed castle walls, large houses and buildings set within spacious grounds, and mature trees are all important features that contribute to the significance of and are an integral part of the overall character of the heritage asset of the Skipton Conservation Area. The distinct character of this part of the conservation area together with the trees forms part of the wider setting of the adjacent Grade II Listed Skipton Castle walls. It is considered therefore that the proposals would not constitute*

*good design, would adversely affect the significance of the heritage assets of Skipton Conservation Area and the Grade II Listed Skipton Castle walls and therefore would be contrary to the National Planning Policy Framework, the extant advice in PPS5; Planning for the Historic Environment Practice Guide, and the requirements of Saved Local Plan Policy H3.*

2. *The site is constrained by protected trees which are a particular feature that contributes to the significance of and are an integral part of the overall character of the heritage asset of the Skipton Conservation Area. The development would entail substantial tree removal but, more significantly, the position of plots 8 & 9 in relation to protected trees would result in an unacceptable degree of overshadowing and have an adverse impact on the amenity of the future occupiers of these dwellings. The impact on residential amenity results in a foreseeable threat to the long term protection of the retained trees. This would ultimately be to the detriment of the character and appearance of Skipton Conservation Area. For these reasons the proposals would not constitute good design under the NPPF and moreover would be contrary to Saved Policy ENV10 of the Craven District (Outside the Yorkshire Dales National Park) Local Plan.*

3.5 63/2013/13813: Application for tree works comprising removal of trees and cutting back and clearance of small shrubs and bushes on site 13 in total. Granted September 2013.

3.6 63/2013/13992: Application for tree works comprising fell 1 no cherry (29 on plan), fell 2 no. purple spring flowering cherry (37 & 38 on plan) and fell 1 no. Birch (22 on plan). Remove lower basal suckers to sycamores (3,4,5,6,7 on plan). Remove basal epicormic growth on Yew (25 on plan), prune Spruce (52 on plan), crown lift Sycamore (35 on plan). No decision issued at time of compiling this report.

**Officer note:** Concerns have been raised by Cllr Turner regarding tree works that have been undertaken on the site. Consent has been granted for the works set out under application 63/2013/13813 detailed above and it is understood that these works have been carried out. The second application for tree works has yet to be determined.

In relation to this particular issue the applicants contacted the Council on 15<sup>th</sup> October to advise that they had submitted applications for tree works, partly in response to concerns raised by a resident of Princes Drive and partly to open up the site as they have experienced problems with trespass, vandalism and anti-social behaviour. Works in the southern corner of the site would comprise crown lifting and reduction to a tree following concerns raised by the Princes Drive resident in response to the previous planning application.

Whilst the second application for works to protected trees has yet to be determined the tree works proposed as part of this planning application that entail removal of 13 trees and extensive replacement planting have been assessed by the Council's Tree Officer and are considered to be acceptable.

#### 4. Planning Policy Background

The National Planning Policy Framework

Saved Local Plan Policies

H3: Residential Development within the Development Limits of Skipton and the Named Local Service Centres.

ENV10: Protection of Trees and Woodlands.

T2: Road Hierarchy.

PPS5: Planning for the Historic Environment Practice Guide.

#### 5. Town Council Comments

5.1 Skipton Town Council: The Committee reiterate previous comments as they believe this constitutes overdevelopment.

#### 6. Consultations

- 6.1 **CDC Environmental Health:** Regard should be had for the incorporation of a sustainable drainage system (SuDS). SuDS tackle surface water run-off problems at source using features such as soakaways, permeable pavements, grassed swales, infiltration trenches, ponds, wetlands and green roofs to attenuate flood peak waterflows. It is the applicant's responsibility to ensure that their actions or operations do not cause or exacerbate flooding and/or erosion problems for others or the environment as a result of their work. The applicant/developer should submit detailed information as to how they intend to incorporate a suitable SuDS scheme into this development. A SuDS scheme should be submitted and approved by Craven District Council prior to the commencement of construction the objective being: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity of the surface water drainage system.

Operating times of the demolition and then construction site should be limited from 7:30am to 6:00pm Monday to Friday, 08:00am to 1:00pm Saturday and no Sunday or Bank Holiday working. The objective being; to minimise disturbance from the site affecting nearby dwellings.

There are no contamination issues associated with the site.

- 6.2 **Yorkshire Water:** Recommend that standard conditions be attached regarding prior approval of separate systems of drainage for foul and surface water on and off the site. In respect of surface water YW advise that the local public sewer network does not have capacity to accept any additional discharge of surface water from the site and the developer must therefore agree a suitable watercourse with YW prior to any development taking place.
- 6.3 **Environment Agency:** No objections but have raised the same concern as YW regarding the capacity of the public sewer network.
- 6.4 **CDC Conservation Advisor:** The submitted scheme has taken into account all of the recommendations made regarding density, safeguarding of trees, layout of dwellings, design and materials and vehicular access. The key issue at the outset was the context of this residential proposal and its effect upon the TPO'd trees, the effect on the Conservation Area character and appearance and its effect on the experience of arriving in Skipton. The designs form part of a family of buildings and will produce unity with variety. Plot 1 in particular works much better as a single dwelling and its hipped roof, together with the elevation treatment makes it attractive and interesting from all directions. The scheme is worthy of obtaining approval.
- 6.5 **CDC Tree Officer:** In response to the previous submission the tree officer considered that whilst the development proposals did not directly impinge of the root protection zones of the trees on the site and there were no objections to the proposed tree works and removals, there were potential long term impacts to consider. Principally these impact arose from the proximity of parts of the scheme to the established tree belts which could lead to pressure for trees to be removed in the future by residents of the proposed housing.

Although no formal written response has been received regarding the current scheme the tree officer has been in discussion with the applicants regarding the revised layout and has advised the case officer verbally that the revised scheme addressed the previous concerns.

- 6.4 **NYCC Highways:** Recommend that planning permission is granted subject to conditions being imposed to require prior approval of the road and footway details and their construction, the provision of visibility splays, highway works, turning areas and the retention of garaging. Additional conditions are also suggested to prevent the deposit of mud, grit and dirt on the highway and for approval of details of the on-site parking, storage and traffic management during the construction phase of the development.

- 6.5 **CDC Strategic Housing:** The applicant agreed to a financial viability appraisal that has been independently assessed on behalf of the Council as part of the previous planning application. The overall conclusion of the assessment (based on the original intention to build 10 dwellings) was that a contribution to affordable housing on this site should be waived as otherwise the proposed development would not be economically viable (principally due to the acquisition price of the site in significantly different market conditions in 2007).

7. Representations

- 7.1 None received at time of compiling report.

8. Summary of Principal Planning Issues

- 8.1 Principle of development.  
8.2 Scale, design and visual impact including the impact on heritage assets.  
8.3 Impact on amenity.  
8.4 Tree issues.  
8.5 Highway issues.  
8.6 Affordable housing contributions.

9. Analysis

**Principle of Development**

- 9.1 The site is located within development limits and is also previously developed land and as a consequence there is no objection in principle to the redevelopment of the site to provide additional housing.
- 9.2 As the site is in a sustainable location it is supported in principle under the NPPF. It is also acceptable under Saved Local Plan Policy H3 which allows redevelopment of land within the development limits of Skipton subject to criteria relating to development; not resulting in loss of important spaces; the site not being of amenity value; heritage assets not being adversely affected; and, that there are no highway safety issues arising from the development.
- 9.3 It is noted that the site has previously had approval for a residential development of 4 houses in 2006. This permission was in outline with all matters reserved and is no longer extant but is nevertheless material to consideration of the principle of the site being re-developed. Furthermore, when deciding to refuse the recent planning submission for 10 houses (planning ref 63/2013/13482), the reasons for refusing the application did not raise any concerns about the principle of re-developing this site for housing.

In conclusion, recent changes in planning policy as set out in the NPPF are pro-sustainable development and there are no material changes in planning policy that would constitute grounds for refusal of planning permission in principle. Equally, Saved Local Plan policies, whilst being somewhat out of date and therefore of limited weight, remain supportive of the principle of this site being re-developed. Accordingly, the development, subject to compliance with the Policy H3 criteria outlined above, is considered to be acceptable in principle.

**Scale, design and visual impact including the impact on heritage assets**

- 9.4 There are three main issues to consider. Firstly, the question of whether or not the revised proposals constitute good design. Secondly, whether they would adversely impact upon the significance of heritage assets, which in this case is the Skipton Conservation Area and the Grade II Listed Castle walls. Finally, it is necessary to consider whether or not the revisions have overcome the Council's previous reasons for refusal.
- 9.5 With regards to the first issue paragraphs 56 to 68 of the NPPF deal with good design setting out primarily that great importance is attached to the design of the built environment and that this is a key aspect of sustainable development which is indivisible from good planning. The NPPF makes it clear that good design should '*contribute positively to making places better for people*'.

- 9.6 At paragraph 59 the NPPF in relation to design policies in emerging Local Plans states that LPA's should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.
- 9.7 Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- 9.8 In relation to the impact of the development on the conservation area and the nearby listed buildings the NPPF at paragraphs 126 to 141 require that an understanding of the significance of heritage assets must form the basis of any subsequent planning decision and that development should not be permitted that would result in harm to that heritage asset. Conversely development proposals within conservation areas that make a positive contribution e.g. to enhance or better reveal the significance of the heritage asset, should be treated favourably.
- 9.9 Saved Policy H3 is also of relevance as this policy seeks to ensure that residential development does not have an adverse effect on areas or buildings of historic or architectural interest. The significance of the policy is now reduced due to its age, but the objective of protecting areas or buildings of historic or architectural interest remains a valid planning aim.
- 9.10 The main changes which have been made have been upon the advice of the case officer and the Council's Conservation Advisor and it is considered that the scheme is substantially improved and considerably better suited to the prominent and sensitive location of the site.
- 9.11 The amendments submitted by the applicants have reduced the overall scale and massing of the proposed development. These changes are welcomed and it is considered that the level of development, although only reduced by one unit, is now appropriate given the site constraints. There is consequently no question that the revised scheme is an improvement on the original and therefore more acceptable in planning terms.
- 9.12 In relation to the question of design there are contrasting styles of buildings present around the site comprising traditional vernacular to the west and south-west, a modern detached house and bungalows to the south, executive detached housing to the east and a large fairly distinctive property lying to the north-east. However, the main site frontage is to the Bailey where it is viewed in the context of the walls to Skipton Castle which are Grade II listed and the site itself can be viewed as a raised area set behind trees set along the site frontage. Despite the mix of building styles in the immediate area the site is principally viewed in the context of its frontage along The Bailey. When viewed from The Bailey the area comprises a unique setting dominated by the castle walls and extensive tree planting which create a high quality environment that is distinct in its character. Existing buildings, where visible along the road, comprises a row of traditional cottages and then larger buildings set within spacious grounds.
- 9.13 It is considered that the proposals would represent an appropriate level of development of the application site which would be of a scale, density and massing that would relate satisfactorily to the constraints of the site and its immediate surroundings. In particular the bespoke lodge design of Plot 1 would add visual interest to the area and impart an element of uniqueness to the overall scheme.
- 9.14 With regards to the impact of the proposals on the nearby Grade II listed structure of the castle walls it is considered that the significance of this particular heritage asset would not be unacceptably impacted upon.
- 9.15 As dealt with under an assessment of the tree issues earlier in this report the site is constrained by protected trees which are an integral part of the overall character of the area and are a particular feature that contributes to the significance of this part of the conservation area. The development as proposed would entail substantial tree removal but equally would entail significant new planting along the principal elevations to offset the tree losses.
- 9.16 It is considered that the proposals have fully addressed the Council's reasons for refusal of the previous planning application.

9.17 In summary, it is considered that the proposals represent an appropriate form of development that would be acceptable in terms of the impact on the conservation area adjacent heritage assets and the character of the wider area generally.

### **Impact on amenity**

- 9.18 To the south existing tree and shrub planting would prevent any direct overlooking to the sheltered bungalows and detached dwelling situated on Princes Drive which are located in excess of 22m from the rear of the proposed detached dwelling on plot 9 of the application site. The side elevation of this same property would lie roughly 6m from the gable end of Rectory Cottage to the west and the relationship is acceptable.
- 9.19 The other immediately neighbouring properties are 'The Paddock' and the new 'executive' houses built within its grounds to the east of the site and a single dwelling to the north. In the case of the new dwellings on Plots 6-8 at the eastern side of the site the properties would lie at a distance of between 9 – 10.5m from the site boundary with their front elevation facing the rear of the proposed houses and would be partially screened by an existing 3m high beech hedge. The overall interface distances to the existing houses would range between 20-24m. 'The Paddock' would be set further away and at an oblique angle to the north-east and therefore would be impacted upon to a lesser extent. The existing house to the north would lie with its gable end located between 8 and 10.5m from the rear elevation of plots 2-5 as proposed.
- 9.20 It is considered that the general orientation of the proposed housing and interface distances relative to the existing housing on the periphery of the site are such that there would be no issues relating to outlook, loss of light or loss of privacy and that the development as proposed is acceptable in terms of amenity.
- 9.21 There are no other properties within close proximity of the development site that would be unacceptably impacted upon and the interface distances between the proposed houses are all considered adequate.
- 9.22 With regards to Policy H3 the site is of no specific recreational amenity value and is not an important space and therefore its development is acceptable under this particular criterion.

### **Tree issues**

- 9.23 Essentially there are two issues:
- Direct impacts arising from the proposed building works.
  - Potential long term impacts arising from the proximity of the retained trees to the proposed development specifically, pressure for further tree works or removal of trees from future residents of plots 7, 8 and 9 of the scheme.
- 9.24 In the case of the first issue the developer has reduced the overall amount of development and re-configured plots 1, 8 and 9 to allow for a greater clearance of the root protection Areas of the trees flanking the southern and western site boundaries. These changes, subject to the imposition of conditions regarding prior approval of the tree protection measures, are considered to be acceptable.
- 9.25 With regards to the second issue the principal concerns were that the protected trees would limit the use of the amenity space and substantially overshadow the rear elevation and gardens of three of the proposed housing plots. The amendments to the proposals have addressed these concerns and are now considered to be acceptable.
- 9.26 In summary therefore, the proposals are acceptable in terms of the proposed tree works subject to adequate measures being in place to ensure their protection whilst building works are under way.

### **Highway issues**

- 9.27 The proposals would include sufficient on-site parking for a minimum of two spaces per dwelling and would have sufficient turning spaces to allow vehicle manoeuvring without the need to reverse onto or off Rectory Lane.



- 9.28 The proposals include alterations to the site access and layout which have been agreed with the Highways Engineer and would include some changes to improve visibility at the shared access serving The Rectory and Rectory Cottage that lie immediately adjacent. No objections have been received from NYCC Highways to the proposals.
- 9.29 In terms of the capacity of the site to accommodate the traffic that is likely to be generated by the development it is considered that the proposals would make more use of the land than the previously approved scheme for four dwellings and that the intensification would not give rise to highway safety issues

#### **Affordable housing contributions**

- 9.30 The council has recently adopted an interim approach to negotiating affordable housing requirements which in summary requires a 40% contribution on development sites of 5 or more houses. The proposed development consequently falls within the threshold limits for which an affordable housing contribution would be sought.
- 9.31 In this particular instance the developer has submitted a financial viability appraisal as part of the previous planning application for 10 houses which has been independently assessed by Harrogate Borough Council's Valuation Surveyor on behalf of CDC. The conclusion of the assessment was that the development of the site with ten houses could only be viable if the contribution to affordable housing was waived. This would also be the case with a scheme for 9 houses. It has subsequently been agreed with the Council's Strategic Housing team that no affordable housing contribution would be sought as part of this development.

#### **10. Recommendation**

##### **10.1 That planning permission is granted subject to the following conditions:**

1. The development hereby approved shall be begun not later than the expiration of 3 years beginning with the date of this permission.  
Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990.
2. The development hereby approved shall not be carried out other than wholly in accordance with Drawing Nos: 2422.8 revision A received 5<sup>th</sup> November 2013, and 2422.9, and 2422.10 received by the Local Planning Authority 30<sup>th</sup> September 2013. The development shall be completed in accordance with the approved plans except where conditions attached to this planning permission indicate otherwise or where alternative details have subsequently been approved following an application for a non-material amendment.  
Reason: To specify the terms of the planning permission for the avoidance of doubt.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any Order revoking or re-enacting that Order with or without modification) no garages, car ports, outbuildings, walls, fences or other means of enclosure shall be erected on any part of the land between the existing vehicular highway and any main walls of the proposed buildings lying adjacent to Rectory Lane or The Bailey.  
Reason: In the interests of visual amenity.
4. Prior to their first use on site all details of the materials to be used on the external elevations and roofs of the development hereby approved, including any hard surfaces or boundary enclosures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved details.  
Reason: In the interests of visual amenity.
5. The approved landscaping scheme and tree works set out in the approved plans and Arboricultural Method Statement (Sept. 2013) shall be implemented in the first planting season following completion of the development, or first occupation/use, whichever is

the soonest. The approved scheme shall be maintained for a period of not less than 10 years and shall include the replacement of any tree or shrub which is removed, becomes seriously damaged, diseased or dies, by the same species or different species and shall be agreed in writing by the Local Planning Authority. The replacement tree or shrub must be of similar size to that originally planted.

6. No development, including site clearance, shall commence until a scheme for the protection of all trees and hedges being retained has been submitted to and approved in writing by the Local Planning Authority. The protection measures shall be in accordance with BS 5837 (2012) '*Trees in relation to construction*' and shall be retained for the duration of the works and only removed once the development is complete and works materials removed from the site.

Reason (for 5 and 6): In the interests of visual amenity band to prevent damage to trees during construction works.

7. No development shall take place until a scheme for the disposal of foul and surface water drainage based upon sustainable drainage principles including details of any balancing works, off-site works and mitigation against the risk of overland flows on the site has been submitted to an approved in writing by the local planning authority. The development thereafter shall be implemented in accordance with the approved scheme.

Reason: To ensure that the site is properly drained.

8. Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved drainage works.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

9. 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 following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

(1) Detailed engineering drawings to a scale of not less than 1:250 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.

(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 with the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway safety.

10. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is 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 in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason: To ensure safe and appropriate access and egress to the dwellings in the interests of highway safety and the convenience of prospective residents.

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 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:
- (i) The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.
  - (ii) The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6.
  - (iii) 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 or proposed highway.
  - (iv) That part of the access(es) extending 6 metres into the site from the carriageway of the existing or proposed highway shall be at a gradient not exceeding 1 in 20.
  - (v) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway shall be constructed in accordance with the approved details, and/or the the Highway Authority and maintained thereafter to prevent such discharges.
  - (vi) 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.
  - (vii) Provision of tactile paving in accordance with the current Government guidance.

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

Reason: Changes to the General Permitted Development Order were specifically brought in during October 2008 to prevent newly hard surfaced front gardens, resulting in flooding problems and surcharging public sewers. Discharging water from newly hard surfaced drives to public sewers should therefore be avoided where possible

12. 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 **45 metres northerly** measured along both channel lines of **Rectory Lane** from a point measured **2 metres** down the centre line of the access road. The eye height will be **1.05m** and the object height shall be **1.05m**. Once created, these visibility 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 (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of **33 metres** measured along centre line of **Rectory Lane** from a point measured **2 metres** down the centre line of the access road. The eye height will be **1.05m** and the object height shall be **1.05m**. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
14. 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 visibility splays providing clear visibility of **2 metres x 2 metres** measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be **1.05 metre** & 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 highway safety.

15. 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:
  - (i) The details of the required highway improvement works, listed below, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.
  - (ii) A programme for the completion of the proposed works has been submitted. The required highway improvements shall include:
    - a. Provision of tactile paving
    - b. Footway on Rectory LaneThe development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

16. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number:
  - (i) have been constructed in accordance with the approved drawing
  - (ii) have been constructed in accordance with Standard Detail Number **P1**
  - (iii) 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.

Reason: In accordance with policy number and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

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 in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway 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 in consultation with the Highway Authority agrees in writing to their withdrawal.

Reason: In accordance with policy number and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

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

19. Prior to the first occupation of the development, details of the arrangements for the storage of bins shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details and the approved arrangements maintained thereafter.

Reason: In the interests of protecting the character and appearance of the area.

### Informatives

1. Environmental Health has advised that operating times of the demolition and then construction site should be limited from 7:30am to 6:00pm Monday to Friday, 08:00am to 1:00pm Saturday and no Sunday or Bank Holiday working. The objective being to minimise disturbance from the site affecting nearby dwellings.

Statement of Positive Engagement: -

In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF. In particular the Council has: -

- engaged in pre-application discussions
- requested amended design approaches / information to address the planning issues which have arisen in relation to dealing with this application.
- accepted additional information / changes to the scheme post validation

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**WARD AND****APPLICATION No.****PROPOSED DEVELOPMENT AND SITE ADDRESS**

SKIPTON NORTH  
63/2013/13973

VARIATION AND/OR REMOVAL OF CONDITIONS 17, 18, 19, 20, 21 AND 22 OF PREVIOUSLY APPROVED APPLICATION (63/2011/12082 CONVERSION AND REDEVELOPMENT OF THE FORMER ST MONICA'S CONVENT TO FORM PARISH MEETING ROOMS AND RESIDENTIAL APARTMENTS)

ST MONICA'S CONVENT, ST STEPHEN'S CHURCH, GARGRAVE ROAD, SKIPTON.

APPLICANT NAME: Trustee of the Diocese of Leeds

TARGET DECISION DATE: 08/01/2014

CASE OFFICER: Roger France

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**This application is being referred to Planning Committee because the original application was determined by the Committee.**

1. Site Description

- 1.1 St. Monica's Convent is located within the built up area of Skipton to the north west of the town centre and forms part of the group of buildings and grounds associated with St Stephen's Church; its Presbytery; and the former and current St. Stephen's junior schools. This is an area that extends from Gargrave Road in the south to Raikes Road to the north, and is bounded by Ermysted's Grammar school to the west and Castle View Terrace to the east.
- 1.2 The grounds extend to the north and east of the buildings and include an area of mature trees alongside the Castle View Terrace and Raikes Road frontages. The undeveloped land to the east of the Convent is used for informal car parking. Pedestrian access is principally from the Church grounds to the south but vehicle access is currently gained from Castle View Terrace (to the front of the Convent) and from Grassington Road (into the grounds).
- 1.3 The Church grounds lie within the Skipton Conservation Area and are situated within the 'development limits' of the town as identified in the adopted local plan (1999). The main 1861 frontage building and the west wing are listed as being of special architectural or historic interest Grade II. The remainder of the extensions to the original building are not listed in their own right, but are physically attached (and therefore are within the same curtilage).

2. Proposal

- 2.1 Planning permission to retain and refurbish the principal frontage building of 1861, but demolish the later extensions and redevelop the site to form Parish meeting rooms and 70 "age restricted" residential apartments as sheltered housing was approved in February 2013. This application seeks amendments to the 6 planning conditions recommended by the County highway authority (included as Conditions 17 to 22 of the planning permission) and which relate to the upgrading of the existing vehicle access that forms a junction with Grassington Road/Raikes Road (the B6265).
- 2.2 The purpose of the amendments are to rationalise the 6 conditions by replacing them with 3 revised conditions aimed partly at removing duplicity and to achieve greater clarity, but also to change the timing and phasing of the access works. The applicant accepts that the present access needs improving to cater for the traffic generated by the intended occupants and employees, but considers that the existing access is adequate (in highway safety/public amenity terms) to permit the commencement of construction works. Consequently, the revisions are predominantly concerned with a variation that allows demolition and construction works to commence prior to the access being upgraded, but still ensure the new access arrangements are completed before the proposed development is occupied.

### 3. Planning History

- 3.1 63/2011/12082: Change of Use and refurbishment of the former St Monica's Convent including demolition of later addition extensions and 2 no. associated outbuildings, with proposed 3-4 storey new build extensions and 3-4 storey new build block within the grounds, to form parish meeting rooms adjacent to St Stephen's Church and 70 no one, two and three bedroom age restricted residential apartments, with ancillary community facilities and communal lounge/dining room, 34 no. parking spaces and associated landscaped amenity areas. Approved 12 February 2013.
- 3.2 63/2011/12083: Listed Building Consent Change for refurbishment of the former St Monica's Convent including demolition of later addition extensions and 2 no. associated outbuildings, with proposed 3-4 storey new build extensions and 3-4 storey new build block within the grounds, to form parish meeting rooms adjacent to St Stephen's Church and 70 no one, two and three bedroom age restricted apartments, with ancillary community facilities and communal lounge/dining room, 34 no. parking spaces and associated landscaped amenity areas. Granted consent 12 February 2013.

### 4. Planning Policy Background

- 4.1 **National Planning Policy Framework:** Section 4 of the NPPF contains guidance on transport and land use planning, including the promotion of sustainable transport choices and reducing travel by car. Paragraph 32 of the NPPF states that "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."
- 4.2 **Craven District (Outside the Yorkshire Dales National Park) Local Plan:** The local plan policies that relate to this development and has been 'saved' (under the Planning & Compulsory Purchase Act 2004) include Policies H3 'Residential Development within the Development Limits of Skipton, and the named Service Centres), and Policy T2 'Road Hierarchy', both of which are relevant to the current proposal.
- 4.3 Saved Local Plan Policy H3 is permissive of residential development within settlements in the form of infilling, small-scale conversions, small scale development of neglected, derelict or underused land or the redevelopment of land and premises where, amongst other things, the development does not prejudice highway safety), and Policy T2 is permissive of development proposals that are appropriate to the highway network where, amongst other things, they do not generate traffic in excess of the highway network; any new or greater use of an access onto a primary, district or local distributor road is acceptable in design and road safety; and the highway impact has regard to the surrounding landscape.
- 4.4 [Officer Note: Paragraph 215 of the new National Planning Policy Framework states that policies not adopted in accordance with the 2004 Act need to be considered in terms of their degree of consistency with the new NPPF; in particular "the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given". In this case, the LP Policies are broadly in line with the Framework but as they were not prepared under the aforementioned Act are now superseded by the more recently published (and therefore more up-to-date) national planning policy; as such the local plan carries only limited weight.

### 5. Town Council Comments

- 5.1 Skipton Town Council: "The Committee strongly object to this application. They understand that the conditions were in place for the protection of the public and good management of the site."

### 6. Consultations

- 6.1 NYCC Highways: Recommend approval.

### 7. Representations

- 7.1 At the time of the preparation of this report the statutory consultation period for comments had not lapsed. Any updates to the representations received will be reported verbally to the Planning Committee.



8. Summary of Principal Planning Issues

8.1 Whether the revised conditions, compared to the original conditions, would be prejudicial to traffic and pedestrian safety in the vicinity of the site.

9. Analysis

9.1 The principle of development has already been established through the extant planning permission. In respect of highway safety the original planning application was assessed favourably against the NPPF and saved Local Plan Policies.

1. Existing Conditions

9.2 The existing planning conditions (17 to 22) were based on recommendations made by the North Yorkshire County Council and read as follows: -

**Condition 17:** *No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to base course 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 in consultation with the Highway Authority before the first dwelling of the development is occupied.*

**Condition 18:** Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other ground works, except for investigative works, or in the depositing of material on the site until the access has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements: -

- 1) *The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.*
- 2) *The access shall be formed with 3 metre radius kerbs, to give a minimum carriageway width of 6.3 metres, and that part of the access road extending 17 metres into the site shall be constructed in accordance with Standard Detail number DC/CD- B.*
- 3) *Any gates or barriers shall be erected a minimum distance of 10 metres back from the carriageway of the existing or proposed highway.*
- 4) *That part of the access extending 18 metres into the site from the carriageway of the existing or proposed highway shall be at a gradient not exceeding 1 in 7*
- 5) *Provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the approved details and/or the Specification of the Local Highway Authority and maintained thereafter to prevent such discharges.*
- 6) *The final surfacing of any private access within 18 metres of the public highway shall not contain any loose material that is capable of being drawn onto the existing highway*
- 7) *Provision of tactile paving in accordance with the current Government Guidance.*

*All works shall accord with the approved details unless otherwise agreed in writing.*

**Condition 19:** 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 90m measured along both channel lines of the major road B6265 from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 1.05m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

**Condition 20:** *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 work until*

- 1) *The details of the required highway improvement works listed below have been*

*submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority*

- 2) *An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 Road Safety Audit or any superseding regulations*
- 3) *A programme for the completion of the proposed works has been submitted. The required highway improvements shall include:*
  - a. *provision of tactile paving*
  - b. *over-run 'blister' at access and footway widening on B6265.*

**Condition 21:** *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 under condition no 17: over-run 'blister' at access and footway widening on B6265*

**Condition 22:** *No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under Condition no 17: over-run 'blister' at access and footway widening on B6265*

- 1) *Have been constructed in accordance with the submitted drawing (reference 2007-267/108E)*
- 2) *Are available for use unless otherwise approved in writing by the Local Planning Authority.*
- 3) *Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.*

## 2. Proposed Conditions

- 9.3 The applicant's proposals are to replace the above 6 planning conditions with 3 amended conditions as set out below as A, B, C: -

**Condition A:** *Construction works shall not begin until details of the highway and access works shown generally in approved drawing reference 2007-267/108E including:*

- (a) *vehicle and pedestrian access,*
- (b) *street lighting,*
- (c) *parking,*
- (d) *manoeuvring and turning areas,*
- (e) *provision of tactile paving, and*
- (f) *over-run 'blister' at the access and footway widening on the B6265*
- (g) *visibility splays as described in Condition B*

*together with a programme for the works have been submitted to the Local Planning Authority and approved in writing in consultation with the Local Highway Authority and an independent Stage 2 Safety Audit has been carried out in accordance with HD/19/03 Road Safety audit or any superseding regulations.*

**Condition B:** *The highways and access works to be approved under Condition A shall be formed with 3 metre radius kerbs, to give a minimum carriageway width of 6.3 metres, and that part of the access road extending 17 metres into the site shall be constructed in accordance with Standard Detail number DC/CD-B. Splays are to be provided giving clear visibility of 90m measured along both channel lines of the B6265 from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 1.05m. Any gates or barriers shall be erected a minimum distance of 10 metres back from the carriageway of the existing or proposed highway. That part of the access extending 18 metres into the site from the carriageway of the existing or proposed highway shall be at a gradient not exceeding 1 in 7. Notwithstanding the scheme to be provided under Condition 11, provision shall be made to prevent surface water from the*

*site/plot discharging onto the existing or proposed highway in accordance with the approved details and/or the specification of the Local Highway Authority and maintained thereafter to prevent such discharges. The final surfacing of any private access within 18 metres of the public highway shall not contain any loose material that is capable of being drawn onto the highway.*

**Condition C:** *No dwelling to which this planning permission relates shall be occupied until the highway and access works approved under Condition A and in compliance with Condition B have been constructed in accordance with the approved programme to base course macadam level and/or block paved and kerbed and all improvements to the adopted highway junction completed and street lighting installed and in operation. The approved and completed scheme shall be maintained clear of any obstruction and retained for the intended purpose thereafter.*

- 9.4 The benefits to the applicant are that as originally written the conditions would firstly delay the commencement of works on site and, secondly, would lead to abortive work as the new access would be likely to need substantial repair after damage by construction traffic. The amendment would allow the existing access to be used up to the first occupation of the apartments; i.e. it is still intended to improve the access, as approved, to serve the completed development and to manage traffic during the demolition and construction phases.
- 9.5 To support the current application the applicant has submitted a 'Site Traffic Management Assessment' prepared by highway engineering consultants. The purpose of the report is to demonstrate that the impact of demolition and construction traffic will not require the formation of a new access on highway safety nor any other planning grounds, but also to provide the details of mitigation measures that will be imposed to control such traffic in the interests of public safety and amenity. The latter information will also be used (separately) to discharge Condition 23 of the planning permission which requires the approval of details relating to the establishment of a site compound and on-site parking and material storage. The present application includes a plan showing the construction compound (Phase 1) within the site, including the swept path details for large construction/delivery vehicles.
- 9.6 The highway authority has no objections to the revision of their previously recommended conditions and recommends approval of the planning application.
- 9.7 The Town Council objects to the application on the grounds that "They understand that the conditions were in place for the protection of the public and good management of the site." However, no specific reasons are given as to why the content and wording of the replacement conditions are considered to be unacceptable in these respects when compared to the original conditions.

### 3. Conclusion

- 9.8 The effect of the changes proposed in this application is not to seek to avoid carrying out the previously approved access improvements, or alter their design. The request is only that the agreed improvements can be completed before the occupation of the accommodation rather than prior to any works commencing (as required by the current wording). The applicant has provided evidence that the existing (lawful) access is capable of use without significant harm to highway safety, and this change would allow the demolition and construction phases to proceed without delay or any harm to the completed works. It is not held that the amendments and rationalisation of the original six conditions into three re-worded conditions would have any significant impact on local highway safety or public amenity and, therefore, there are no planning grounds to withhold permission.

### 10. **Recommendation**

- 10.1 **Approval of the application is recommended and that conditions 17 to 22 (inclusive) of approval 63/2012/12082 are superseded by those contained in the proposals (as amended slightly by Planning Officers to help ensure the final delivery of highway and access works).**

## Conditions

- 1) The development hereby permitted shall be begun not later than 12 February 2016.  
**Reason:** To ensure compliance with Section 91 of the Town and Country Planning Act 1990 and the terms of the original planning permission (Ref: 63/2012/12082).
- 2) The approved plans comprise Plan Numbers: Plan Numbers 2007-267/102/B; 210/C; 211/C; 212/C; 601; 602A; 603A; 604; 605; 606A received by the Local Planning Authority on 22 June 2012; and 2007-267/103/F; 107/F; 108E; 201F; 202J; 203E; 204G; 205G; 213C; 220E, 221D; 820E; 850D; 852C; received on 20 November 2012. The development shall be completed in accordance with the approved plans except where conditions attached to this planning permission indicate otherwise or where alternative details have been subsequently approved following an application for a non-material amendment.  
**Reason:** To specify the terms of the permission and for the avoidance of doubt.
- 3) The units of residential accommodation hereby approved shall only be occupied by persons where at least one member of the household is aged 55 or above, save that such restriction shall not apply to the continued occupation of any of the apartments by a surviving spouse, partner, or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.  
**Reason:** For the avoidance of doubt. The application, and the impact of development, has only been considered on the basis that the accommodation will be occupied by persons not less than 55 years of age.
- 4) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme.

In the case of onsite provision the scheme shall include:

- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made in the development and shall be, in matters of tenure and type, in accordance with the findings of the North Yorkshire Strategic Housing Market Assessment 2011 or any replacement thereof;
- (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- (iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
- (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

With respect to any alternative provision that is made in lieu of on-site provision the scheme shall include full details of the alternative contribution to be made including:

- a) the timing for the provision of the alternative contribution and its phasing in relation to the occupancy of the market housing;
  - b) where applicable the arrangements for the transfer of the off-site affordable housing to an affordable housing provider or the management of the affordable housing;
  - c) where applicable the arrangements to ensure that such off-site provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - d) where applicable the occupancy criteria to be used for determining the identity of occupiers of the off-site affordable housing and the means by which such occupancy criteria shall be enforced.
- Reason:** To make provision for affordable housing in

accordance with the requirements of the National Planning Policy Framework, the Council's adopted 'Interim Approach to Negotiating affordable Housing Provision', and the 2010 North Yorkshire Strategic Housing Market Assessment (SHMA) that provides evidence of the high need for affordable housing within Craven District.

**Reason:** To secure the provision of affordable housing.

**Informative:** Following discussions between the applicant and the LPA, it is envisaged that the scheme submitted to meet the affordable housing requirement may comprise a commuted sum in lieu of onsite provision secured through a Section 106 Planning Obligation.

- 5) Prior to the first use of building materials on the site details and/or samples of all new materials to be used on the external surfaces of the new buildings, including the proposed external walling and roofing materials, the design and colour of all window frames, doors, rainwater goods, boundary walls, fences and hard surfaced areas, shall have been submitted to and approved in writing by the Local Planning Authority. Development shall subsequently be carried out in accordance with approved details.

**Reason:** To ensure that the dwellings will be of good appearance and to safeguard the special architectural and historic interest of the Convent and Church buildings and their setting, and the wider character and appearance of the Skipton Conservation Area.

- 6) No work shall commence on the external walling of the proposed new buildings until such time as a sample panel, of at least 2 metres square area, showing the type of walling to be used and the style and colour of its pointing has been constructed on the site and inspected and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with approved details.

**Reason:** To ensure that the dwellings will be of good appearance and to safeguard the special architectural and historic interest of the Convent and Church buildings and their setting, and the wider character and appearance of the Skipton Conservation Area.

- 7) All new windows and external doors shall be fabricated to the designs and details shown on the approved plans unless otherwise approved in writing with the District Planning Authority (including the fitting of obscured glass to the living room windows in the east elevation of the proposed East Wing), and all external window frames and doors shall be set in a minimum reveal of 100mm.

**Reason:** To ensure that the dwellings will be of good appearance and to safeguard the special architectural and historic interest of the Convent and Church buildings and their setting, and the wider character and appearance of the Skipton Conservation Area.

- 8) All soil stacks and waste pipes shall be installed within the building and shall not be fixed to the external face of the walls.

**Reason:** To ensure that the dwellings will be of good appearance and to safeguard the special architectural and historic interest of the Convent and Church buildings and their setting, and the wider character and appearance of the Skipton Conservation Area.

- 9) Surface water draining from areas of hardstanding shall be passed through a trapped gully or series of trapped gullies, prior to being discharged into any watercourse, soakaway or surface water sewer. The gully/gullies shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the gully/gullies.

**Reason:** To reduce the risk of pollution to the water environment.

- 10) The site shall be drained on separate systems of foul and surface water on and off the site.**Reason:** In the interests of satisfactory drainage.

- 11) No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works have been submitted to and approved by the local planning authority.
- Reason:** To ensure that the development can be properly drained.
- 12) There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
- Reason:** To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.
- 13) No trees shall be removed from within the application site other than those indicated on the approved plans unless otherwise agreed in writing with the District Planning Authority.
- Reason:** In the interests of tree preservation; to safeguard the amenities of the area and the character and appearance of the Skipton Conservation Area.
- 14) Prior to the commencement of development, all existing trees within the application site (not indicated to be removed on the approved plans) and those trees not within the applicants control but with roots that encroach into the application site, shall be protected from damage by the construction of a timber post and rail fences of not less than 1 metre in height. The fences shall be erected prior to the commencement of any of the works of construction on the new dwellings and garages, and the construction of the new access road in accordance with details which shall show the precise position of the fencing on site. The fencing shall be erected in accordance with the approved scheme and maintained until all works of construction of the new access road and the new dwellings has been completed.
- Reason:** To prevent damage to trees during construction works in the interests of amenity.
- 15) A detailed scheme for landscaping, including the planting of trees and shrubs and the use of surface materials shall be submitted to the Local Planning Authority and no dwelling shall be occupied until the Local Planning Authority have approved a landscaping scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and arrangements for the future maintenance of the landscaped areas. The approved landscaping scheme shall be implemented in the first planting season following completion of the development or first occupation/use, whichever is the soonest.
- Reason:** To safeguard the amenities of the area and the character and appearance of the Skipton Conservation Area.
- 16) In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.
- Reason:** To safeguard the amenities of the area and the character and appearance of the Skipton Conservation Area.
- 17) Construction works shall not begin until details of the highway and access works shown generally in approved drawing reference 2007-267/108E including:
- (a) vehicle and pedestrian access,
  - (b) street lighting,
  - (c) parking,
  - (d) manoeuvring and turning areas,
  - (e) provision of tactile paving, and

- (f) over-run 'blister' at the access and footway widening on the B6265
- (g) visibility splays as described in Condition 18

together with a programme for the works (including the completion of all highway and access works) have been submitted to the Local Planning Authority and approved in writing in consultation with the Local Highway Authority and an independent Stage 2 Safety Audit has been carried out in accordance with HD/19/03 Road Safety audit or any superseding regulations. The development shall thereafter be undertaken in accordance with the approved details.

**Reason:** To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

- 18) The highways and access works to be approved under Condition 17 shall be formed with 3 metre radius kerbs, to give a minimum carriageway width of 6.3 metres, and that part of the access road extending 17 metres into the site shall be constructed in accordance with Standard Detail number DC/CD-B. Splays are to be provided giving clear visibility of 90m measured along both channel lines of the B6265 from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 1.05m. Any gates or barriers shall be erected a minimum distance of 10 metres back from the carriageway of the existing or proposed highway. That part of the access extending 18 metres into the site from the carriageway of the existing or proposed highway shall be at a gradient not exceeding 1 in 7. Notwithstanding the scheme to be provided under Condition 11, provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the approved details and/or the specification of the Local Highway Authority and maintained thereafter to prevent such discharges. The final surfacing of any private access within 18 metres of the public highway shall not contain any loose material that is capable of being drawn onto the highway.

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

- 19) No dwelling to which this planning permission relates shall be occupied until the highway and access works approved under Condition 17 and in compliance with Condition 18 have been constructed in accordance with the approved programme to base course macadam level and/or block paved and kerbed and all improvements to the adopted highway junction completed and street lighting installed and in operation. The approved and completed scheme shall be maintained clear of any obstruction and retained for the intended purpose thereafter.

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

- 20) Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall include:
- 1) the appointment of a travel co-ordinator
  - 2) a partnership approach to influence travel behaviour
  - 3) measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
  - 4) provision of up-to-date details of public transport services
  - 5) continual appraisal of travel patterns and measures provided through the travel plan
  - 6) improved safety for vulnerable road users
  - 7) a reduction in all vehicle trips and mileage

- 8) a programme for the implementation of such measures and any proposed physical works
- 9) Procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

**Reason:** In accordance with Saved Local Plan Policy T2 and to establish measures to encourage more sustainable non-car modes of transport.

- 21) No development shall commence until a scheme for the provision, management and future maintenance of public open space including an implementation programme, has been submitted to and approved in writing by the local planning authority. Public open space shall be provided in accordance with the approved details and timetable and thereafter shall be retained and maintained as approved. Informative: Following discussions between the applicant and the LPA, it is envisaged that the scheme submitted to meet the open space requirement may comprise a commuted sum in lieu of onsite provision secured through a Section 106 Planning Obligation.

**Reason:** In the interests of residential amenity to ensure adequate provision of Public Open Space to meet local needs in accordance with the National Planning Policy Framework and saved Policy SRC2 of the Craven (Outside the Yorkshire Dales National Park).

- 22) Provision shall be made in the development to provide 10% of its energy from decentralised and renewable or low carbon sources or achieve a 10% reduction in energy use compared to the requirements of the Building Regulations 2012 through the submission of a Renewable Energy Strategy, the details to be agreed in writing by the Local Planning Authority prior to development commencing. The development shall thereafter be completed in accordance with the approved scheme.

**Reason:** To ensure that provision is made for energy production from decentralised and renewable or low carbon sources to mitigate Climate Change in compliance with the National Planning Policy Framework.

- 23) The demolition of the existing building or any development hereby approved shall be undertaken in accordance with the mitigation measures and methods of works in respect of bats, identified in the report from BE Brooks Ecological Ltd. (Ecological Consultant), dated June 2011 and accompanying the planning application. Reason: To safeguard the impact of development in respect of bats in the interests of wild life conservation.

### **Informatives**

- 1) All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 41(1) of the Conservation of Habitats and Species Regulations 2010. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and in the first instance contact the National Bat Helpline on 0845 1300 228. Developers/contractors may need to take further advice from Natural England on the need for a European Protected Species Licence in order to continue the development in a lawful manner. Natural England can be contacted at consultations-naturalengland.org.uk, or by calling 0300 060 3900, or Natural England, Consultation Service, Hornbeam House, Crewe Business Park, Electra Way, Crewe, Cheshire, CW1 6GJ.
- 2) Precautions should be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site. Facilities should include the provision of wheel washing facilities where considered necessary. These precautions should 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 throughout the construction period.

- 3) Operating times of the demolition and construction site should be limited from 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 Saturday and no Sunday or Bank Holiday working.

Statement of Positive Engagement: -

In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF. In particular the Council has: -

- engaged in pre-application discussions
- requested amended design approaches/information to address the planning issues which have arisen in relation to dealing with this application.
- accepted additional information/changes to the scheme post validation

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**WARD AND****APPLICATION No.****PROPOSED DEVELOPMENT AND SITE ADDRESS**

SKIPTON NORTH  
63/2013/13985

CHANGE OF USE FROM USE CLASS A1 (RETAIL) TO USE CLASS A2  
(FINANCIAL AND PROFESSIONAL SERVICES)

YEOMANS OUTDOOR LEISURE, CAROLINE SQUARE, 85 HIGH STREET,  
SKIPTON.

APPLICANT NAME: Done Brothers (Cash Betting) Ltd

TARGET DECISION DATE: 09/12/2013

CASE OFFICER: Jack Sykes

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**The application has been referred to the planning committee as it is a departure from the Craven District (Outside the Yorkshire Dales National Park) Local Plan.**

1. Site Description

- 1.1 The application property is a business unit located in the centre of Skipton. The unit fronts onto Caroline Square and is in a prominent location within the town centre. The property is currently in use as an A1 retail unit.
- 1.2 The application site is located within the development limits, conservation area, and the core retail area. The site is also in an area identified as Flood Zone 3.
- 1.3 The site is also subject to an Article 4 direction that restricts:-
- 1.4 *"Development consisting of: The painting of the exterior of any building or wall. "Painting" shall include any application of colour. "Wall" shall include reveals around doors, windows and other openings and include any porch, stairway or other projecting or recessed feature except for joinery, rainwater goods, lighting apparatus and advertisement signs."*

2. Proposal

- 2.1 Permission is sought for the change of use from class A1 (retail) to use class A2 (financial and professional services). Officer's Note: The application has been submitted on behalf of a bookmakers (BetFred) which falls within use class A2.

3. Planning History

- 3.1 There have been a number of previous applications on this site, but nothing of any relevance to this current planning submission. Of more relevance is other decisions taken recently elsewhere within the core retail area of Skipton town centre and in particular with respect to Caffe Nero and The Three Sheep tea room.
- 3.2 With respect to Caffe Nero (Planning Ref. 63/2011/12056), the following important matters were highlighted in an appeal decision: -
  - a) The Inspector considered that policy R3 was out of date and did not conform with the NPPF, and in the absence of up-to-date evidence to justify the policy the weight that can be attached to R3 is very limited,
  - b) Whilst the Inspector concluded that the mixed A1/A3 use of the ground floor at 40-42 Sheep Street caused no harm to the retail function of the Town Centre, he did not intend his decision to set a precedent and said that the Council should judge each case on its own individual merits (paragraph 27 of the appeal decision), despite Saved Policy R3 being out of date, and
  - c) If proposals for the loss of retail premises to other uses within the core retail area are to be resisted in the future the Council would have to be able to demonstrate with evidence the harm that would be caused.

- 3.3 With respect to a planning enforcement matter relating to the Three Sheep tea room, and following the appeal decision with respect to Caffè Nero, the Planning Committee accepted and resolved on 8 April 2013 :-

*'That it is noted that until such time as the Council adopts new planning policy for town centres that is compliant with the National Planning Policy Framework, very limited weight can be attached to Saved Policy R3 from the 1999 Craven Local Plan, and that decisions on future planning applications, or enforcement investigations, relating to the change of use of retail premises to other uses within the core retail area will have to be judged on their own individual merits taking into account planning policy within the National Planning Policy Framework, and the available evidence on what impact any change of use may have on the viability and vitality of the town centre.'*

- 3.4 Under planning ref. 63/2013/13581 the Council then went on to grant planning permission for the change of use of the ground floor of the Three Sheep tea room to A3 café.

#### 4. Planning Policy Background

- 4.1 National Planning Policy Framework

- 4.2 Saved Policy R3 of the Local Plan

- 4.3 Officer note: paragraph 215 of the new National Planning Policy Framework states that policies not adopted in accordance with the 2004 Act need to be considered in terms of their degree of consistency with the new NPPF; in particular "the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given". LP Policy R3 was not prepared under the aforementioned Act and is now substantially superseded by the more recently published (and therefore more up-to-date) national planning policy; consequently the local plan carries limited weight and the application needs to be principally assessed against the National Planning Policy Framework.

#### 5. Town Council Comments

- 5.1 Skipton Town Council object to the proposal as it is within the core retail area. In order to protect the retail base of Skipton refusal is recommended as the committee believe that retail and non-retail are already out of balance in the core retail area.

#### 6. Consultations

- 6.1 North Yorkshire Police's Architectural Liaison Officer has made detailed comments on the proposal relating to crime and the fear of crime. The comments made whilst undoubtedly of importance for reducing crime go beyond what can be controlled through the planning system. It is therefore recommended that many of the issues raised by the North Yorkshire Police Architectural Liaison Officer are addressed by an informative attached to the decision notice bringing these matters to the applicant's attention.

#### 7. Representations

- 7.1 The freeholders of the application site have written in showing their support for the change of use.

#### 8. Summary of Principal Planning Issues

- 8.1 Principal of the change of use

- 8.2 Visual Impact of the proposed development

- 8.3 Impact of the development on the amenities of neighbouring properties

#### 9. Analysis

##### **Principal of the change of use**

- 9.1 The main thrust of the new National Planning Policy Framework (NPPF) is an overarching presumption in favour of sustainable development. This new guidance reaffirms that it is the Government's clear expectation that local planning authorities should deal promptly and favourably with applications that comply with up to date plans and that where plans are out of

date, there will be a strong presumption in favour of sustainable development that accords with national planning policies; Paragraph 14 indicates that development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.

- 9.2 Saved Policy R3 of the Craven District (outside the Yorkshire Dales National Park) Local Plan relates to the Ground Floor Use of Units within the Core Retail Area. The policy states 'Within the core retailing areas, as identified on the inset maps, the Council will resist any proposals for change of use at ground floor level from retail to any other use'. The purpose of the policy is to ensure that the function of the core retail area as a retailing centre is not undermined through an over diversification of other uses. Saved Policy R3 is now 13 years old and while it forms part of the Development Plan for the District it has no relevant evidence base and has clearly been superseded by recent changes in planning policy practice. It is clear from the NPPF that the protection of the vitality and viability of town centres remains a key planning objective, but other town centre uses (such as A2 uses) are permissible within town centres.
- 9.3 It is also noted that recent changes to the General permitted Development Order allow the change of use from an A1 use to an A2 use in some cases for a period of 2 years without requiring planning permission as long as the applicants notify the council of when the change of use would commence and what that use would be. Such a process would not be applicable in this instance as it would only apply to floorspace of 150m or under with the site proposed having a 165m floorspace. However this change in planning legislation supports Officer's opinion that little weight can be attached to saved Policy R3 in this instance as for slightly smaller units such changes in use can be undertaken on a temporary basis without planning permission.
- 9.4 In conclusion, there is no up to date evidence in this case that demonstrates that there is any harm caused to the wider town centre arising from the use of these premises for an A2 use; the NPPF suggests such uses can complement, rather than detract from, the retail function. In the absence of any negative impact on the vitality and viability of the town centre there is nothing to suggest that "adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole".

#### **Visual Impact of the proposed development**

- 9.5 The National Planning Policy Framework states that LPAs should always seek to secure high quality design and ensure developments are "visually attractive as a result of good architecture and appropriate landscaping". Permission should be "refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."
- 9.6 No external alterations are proposed as part of the development and as such the proposal is not considered to result in any unacceptable impact on the character or appearance of the conservation area. A condition is recommended to require a shop window display to be maintained in the premises to help achieve continued variety and interest in the town centre (such an approach is typical with High Street bookmakers). In conclusion, the proposal is considered to accord with the guidance of the NPPF in this respect.

#### **Impact of the development on the amenities of neighbouring properties**

- 9.7 The National Planning Policy Framework states that LPAs should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings.
- 9.8 The application proposes evening opening hours until 10.00 pm and the acceptability of this needs to be considered. The application site is located in the centre of Skipton where there are other premises within an A2 use and also a number of night time businesses such as pubs, clubs and restaurants. The proposed use and opening times are therefore not considered to be incompatible with the predominant uses of the area and are unlikely to have a significant detrimental impact on the amenities of any neighbouring residents. The proposal would therefore accord with this requirement of the NPPF.

## Other issues

- 9.9 A number of security concerns have been raised by North Yorkshire Police's Architectural Liaison officer. Whilst the safety of users of the premises is of concern the suggestions made are considered to be beyond the scope of the planning system to control. However the concerns raised are highlighted in an informative and should be given due care and consideration by the applicant. The officer also suggested that the unit should not be open in the evenings however given the presence of similar but unrestricted businesses in the area it is not considered there is justification to restrict the business in this manner.
- 9.10 The site is within Flood Risk zone 3 which is those locations at most risk of flooding. However a financial and professional services use is not classed as being any more vulnerable to flooding than a shop use and therefore there is no reason to resist this change of use.
- 9.11 Finally, it is worth noting that moral objections to a gambling establishment are not a material planning issue.

## 10. Recommendation

- 10.1 That the application is approved subject to the following conditions.

### Conditions

1. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.  
REASON: To ensure compliance with Section 91 of the Town and Country Planning Act 1990.
2. The approved plans comprise the Site Location Plan and Drawing no 958BF-85LP received by the Local Planning Authority on the 11<sup>th</sup> October. The development shall be completed in accordance with the approved plans except where conditions attached to this planning permission indicate otherwise or where alternative details have been subsequently approved following an application for a non material amendment.  
REASON: To specify the permission and for the avoidance of doubt
3. The A2 use of the property hereby permitted shall not be carried out outside the hours of 0800 to 2200 Monday to Saturday and on Sundays and Bank Holidays between 0900 to 2200.  
REASON: To specify the permission and to protect the amenities of the surrounding area.
4. The shop front of the premises shall include a window display which shall be provided prior to the commencement of the use of the premises hereby permitted and shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.  
REASON: To retain part of the retail character of the unit and the shopping area generally.
5. INFORMATIVE: The applicant should be aware that the site falls under an article 4 direction that restricts:-  
*Development consisting of: The painting of the exterior of any building or wall. "Painting" shall include any application of colour. "Wall" shall include reveals around doors, windows and other openings and include any porch, stairway or other projecting or recessed feature except for joinery, rainwater goods, lighting apparatus and advertisement signs.*
6. INFORMATIVE: The applicant should be aware of the possible security issues on the site and take note of the North Yorkshire Police's Liaison Officer's recommendations which are as follows:-
  - That the shop is fitted with a monitored alarm system with wire-free personal attack alarms for staff. It is not known how much cash is left on the premises overnight and neither does the burglar so burglary is always an issue.
  - To address the possibility of an armed attack and to protect the staff and address the fear of crime the screen on the counter should be laminated glass 25.4mm thick which is bullet resistant glass.

- That the counter below the screen is also bullet resistant. (Thick layers of paper have good bullet resistant qualities and old telephone directories behind the counter can be considered.)
- The betting shop has CCTV installed inside the shop.
- The front and back doors and the door to counter should conform to BS24:2012 as a minimum. Consideration should be given to reinforcing these doors even further to address an armed robbery. Internal doors should have a door viewer in them and a substantial door chain fitted.
- Cash should not be taken from the shop to a bank or other place by the staff but should be carried by a cash in transit company.
- The gaming machines should be emptied every night and if there is cash left on the premises over night there should be a floor mounted safe installed that is insurance rated for the amount of cash to be stored. The safe should be secured to the floor.

Statement of Positive Engagement: -

In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF.

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**WARD AND****APPLICATION No.****PROPOSED DEVELOPMENT AND SITE ADDRESS**

**SKIPTON NORTH  
63/2013/13881**

*1 X BEECH - CROWN THIN BY 10%, CROWN LIFT TO GIVE 4M  
CLEARANCE OVER GARDEN AND REDUCE LOWER EASTERN BRANCH  
EXTENSIONS BY 1 - 1.5M.*

*2 X BEECH - CROWN THIN BY 10% AND CROWN LIFT TO GIVE 4M  
CLEARANCE OVER GARDEN.*

*1 X BEECH - REDUCE WESTERN BRANCH EXTENSIONS BY 1 - 1.5M.*

*11 GAINSBOROUGH COURT SKIPTON*

APPLICANT NAME: Sally Goodman

TARGET DECISION DATE: 28/10/2013

CASE OFFICER: Elizabeth McLaughlin

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**Councillor John Kerwin-Davey has asked for the application has been referred to Planning Committee for reasons of openness and transparency given the concerns raised by the local resident.**

1. Site Description

1.1 The property is a large detached stone dwelling on a corner plot of a private residential estate. The trees are located in the garden to the rear and side of the property.

2. Proposal

2.1 1 x Beech - Crown Thin By 10%, Crown Lift To Give 4m Clearance Over Garden And Reduce Lower Eastern Branch Extensions By 1 - 1.5m.

2.2 2 x Beech - Crown Thin By 10% And Crown Lift to Give 4m Clearance Over Garden.

2.3 1 x Beech - Reduce Western Branch Extensions by 1 - 1.5m.

3. Planning History

3.1 63/2004/4761 - Remove 16. No. Larch and 1 No. Beech – Conditional approval.

3.2 63/2007/7059 - Remove 1 No. Sycamore – Conditional approval.

4. Planning Policy Background

4.1 N/A

5. Town Council Comments

5.1 No objections.

6. Consultations

6.1 None

7. Representations

7.1 An objection has been received from the neighbouring property at 15 Gainsborough Court who feels that the application is misleading as they believe that as the majority of the tree marked T4 on the application is on their property, it therefore belongs to them. They feel that the tree has already been pruned enough in the past and that to do so further would destroy the natural shape and beauty of the tree. They also state in their objection that the tree is visible to all the neighbours and they can see no benefit to the work as the tree doesn't block any light to the houses nor is it near any properties.

8. Summary of Principal Planning Issues

8.1 Whether or not the work would have a negative impact on the health or amenity value of the trees.

9. Analysis

9.1 The trees are all mature Beech trees. The work proposed is all in line with good practice and is considered to be relatively minor pruning. None of the proposals would be of detriment to the trees health or amenity value.

9.2 Although it is accepted that there are issues with the neighbours and ambiguity with regards to the owner of the trees, this is not a matter with which the Council can involve itself. The Council's decision to approve works to trees does not override any ownership issues and this would be a private matter for the two parties to resolve between themselves.

9.3 With regards to the objection expressing concerns as to the extent of the work to T4 potentially damaging the tree and ruining its amenity value, it is the Tree Officer's opinion that this would not be the case.

10. Recommendation

10.1 Approve.

Conditions

1. All tree work shall be carried out in accordance with British Standard 3998 'Tree Work'.

Reason: In the interests of the safety of persons and properties, including any neighbouring trees which are not to be felled, and in the interests of the health of the trees upon which the work is to be carried out.

2. No tree operations specified in this consent shall be carried out later than 2 years from the date of this notice. If for any reason such works are not carried out within this period, a new and separate application must be made to the Local Planning Authority.

Reason: So that the desirability or necessity of the unimplemented works can be re-assessed in the light of the passage of time.

Informatives

1. The Council's decision to approve works to trees does not override any ownership issues and this would be a private matter for relevant landowners to resolve between themselves.

Statement of Positive Engagement: -

In dealing with this application Craven District Council has sought to approach the decision making process in a positive way, in accordance with the requirements of paragraphs 186 and 187 of the NPPF.