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| APPLICATION NUMBER: | 8/73/159AU/PA 2010/1143/FUL | PARISH: | Tadcaster Town Council |
| APPLICANT: | Selby District Council | VALID DATE: | 18 November 2010 |
| | | EXPIRY DATE: | 13 January 2011 |
| PROPOSAL: | The resurfacing of car park to include the formal delineation of 143 car parking bays, 3 disabled bays and 4 motorcycle bays and including amendments to access and egress junction and drainage work | | |
| LOCATION: | Central Car Park Chapel Street Tadcaster | | |

DESCRIPTION AND BACKGROUND

The Site

The application site is Chapel Street Car Park, which is also known as, and referred to, in both the supporting statement accompanying the current application and in previous planning applications, as 'Tadcaster Central Area Car Park' or 'Tadcaster Central Car Park'.

The site comprises a public car park, measuring 4518 metres square, surfaced in tarmac, with three soft landscaped areas, planted with 3 deciduous trees and illuminated by modern lighting columns. Previous repairs and maintenance appears to have been undertaken on an *ad hoc* basis. It would also appear that at some stage in the past the site was formally laid out with spaces delineated, as evidenced by the ghosts of the white lining used to demarcate some of parking bays. However in some areas these are barely discernible. In addition the surface is varied in quality with some more recently surfaced areas interspersed with older areas, the latter being somewhat uneven and rutted leading to the formation of puddles and tripping hazards.

Vehicular access to and egress from the car park is gained via Chapel Street to the west of the site. To the south of the vehicular access is an area of shrubs beyond which is a vacant open plot. To the north of the access is a public house. Opposite the site entrance, and on the western side of Church Street is a pair of listed stone houses.

To the south of the main part of the car park is another area of hard standing surfaced in tarmac, across which access is gained to the rear of the properties fronting onto High street. This area is within private ownership and

unauthorised parking is prevented by bollards. In the south east corner is a pedestrian access to High street.

To the east of the site the boundary backs on to the rear of properties fronting onto Kirkgate. Furthermore there is a small area of private parking to the rear of No 11 Kirkgate, which does not form part of the public car park. Pedestrian access to the site from the east is provided by a ginnel adjacent to 'Peekaboo' and from Vicarage Lane.

To the north of the main part of the car park is an area of open land, in which stands the 'Old vicarage' a Grade II* listed building, to the north of which are properties fronting onto Westgate.

The site is located within the Tadcaster Conservation Area and as such is surrounded by the historic fabric of the town centre. There are several listed buildings abutting, or within the vicinity of the site. Of particular note, by virtue of their proximity are the Old Vicarage (Grade II*) situated to the immediate north of the site, Nos 47 and 49 Westgate (Grade II), the Ark (Grade II*) situated adjacent to the north east corner of the site, various properties (Nos 10, 12/14, 16, 18, 24, 26 28) fronting High Street (all grade II) which back onto the car park, the stone houses along the western side of Chapel Street (Grade II), the Methodist church, fronting High Street (Grade II), properties along the south side of High Street, in particular the 'walls, gates and piers adjoining the offices to John Smith's, High street and the malt tower and offices, Centre Lane' (Grade II).

The site is located within the 'shopping and commercial centre' of the Town as designated on the proposals maps of the Selby District Local Plan. The site is also designated as a 'car park', subject to Policy VP2 on the proposals map of the Selby District Local Plan.

The east side of the car park falls within Flood Zone 2 on the Environment Agency's Flood Zone maps.

The Proposal

The applicant is seeking permission for the resurfacing of the car park to include the formal delineation of 143 car parking bays, 3 disabled bays and 4 motorcycle bays, amendments to the access and egress junctions and drainage works.

In support of the application the applicant has submitted a Planning Statement including a Design and Access Statement, a PPS5 Heritage Statement, Archaeology Assessment and Geophysical Study.

Planning History

The application site has been laid out and used as a car park since at least the mid 1980s. Since then there have been numerous schemes submitted and approved for its redesign.

In 1985, an outline application (reference CO/1985/1062; alternative reference 8/73/159H/PA) for the erection of a supermarket and shop units and for the proposed alterations to existing buildings was submitted and subsequently refused.

In 1986 an outline application (reference CO/1986/1153; alternative reference 8/73/159K/PA) for the erection of a supermarket, shop units and residential development, proposed alterations to buildings and the change of use of buildings was submitted and subsequently permitted.

In 1991, an application (reference CO/1991/1225; alternative reference 8/73/159X/PA) for proposed alterations and additions to the toilets/ store, construction of car parking areas and re-arrangement of existing car parking etc. was submitted by Wharfebank and subsequently approved.

In 1993 a full application (reference CO/1993/1035; alternative reference 8/73/159AL/PA) was submitted by Samuel Smith Brewery for alterations to the car park and vehicular access; relocation of the visiting market; extensions and alterations to the green etc. This application was accompanied by an application (reference number CO/1993/1034; alternative reference 8/73/159AK/PA) for conservation area consent to demolish the public toilets, former surgery and walls. The applicant subsequently appealed but the appeal was subsequently dismissed.

In 1993 a full application (reference CO/1993/1036; alternative reference 8/73/159AM/PA) was submitted by Samuel Smith's Brewery for alterations to the car park and vehicular access; relocation of the visiting market; extensions and alterations to the green etc. This was subsequently approved.

In 1993 an application (reference number CO/1993/1037; alternative reference 8/73/159AN/PA) was submitted by Samuel Smith Old Brewery for conservation area consent for the demolition of public toilets, former surgery and walls on land within Tadcaster Central Area and was subsequently approved.

In 1997 an application (reference CO/1997/0419; alternative reference 8/73/159AR/PA) was submitted by Wharfebank for the renewal of planning consent 8/73/159X/PA approved on the 25 June 1992 for alterations and additions to the toilet/store, construction of car parking areas and re-arrangement of the existing car parking together with landscaping, use of land as market square. This application was subsequently approved.

In 2002, an application (reference CO/2002/1140; alternative reference 8/73/159AS/PA) for the refurbishment of the existing car park, including resurfacing, new lighting, landscaping and the erection of a replacement public convenience building was made by Selby District Council. The application was approved in 2003. However the application was subsequently challenged and the Council agreed to a Consent Order to quash the planning permission granted.

In September 2002 an application (reference CO/2002/1219; alternative reference 8/73/585/PA) was made by Samuel Smith Old Brewery to facilitate the comprehensive regeneration of Tadcaster Town Centre, which included the demolition and re-laying of the Central Area Car Park and the development of 9 sites within the wider town centre. The application was subsequently approved in October 2003. All schemes in relation to conditions precedent have been discharged and development has commenced. As such this permission is extant.

In September 2004, planning permission (application reference CO/2004/0401; alternative reference 8/73/159AT/PA), submitted by Selby District Council was granted for the refurbishment of the car park including resurfacing, new lighting, landscaping and the erection of a public convenience building. The decision was subjected to a Judicial Review, which led to the Council agreeing to quash its own permission in 2009.

In February 2010, Conservation Area Consent (application reference 2009/0855/CON; alternative reference 8/73/585F/CA) was granted for the demolition of the former public convenience building that was situated in the middle of the Site. The toilet has been subsequently demolished.

CONSULTATIONS

TADCASTER TOWN COUNCIL:

The Town Council has stated that although their members recognised that Blue Badge holders could use yellow lines in the town to park, it was felt that the positioning and number of disabled parking bays needed further consideration. The Town Council also suggest that 2 bays be marked out close to the Vicarage lane exit and a further 2 near the slope leading to high Street.

The Town Council has also stated that although members understood the reasons for not including a WC block within the plans they would like to see a provision considered in future years and noted that in 'the past an agreement had been made with Selby district Council regarding the construction and maintenance for a new toilet block'.

ENGLISH HERITAGE:

English Heritage have advised that the application should be determined in accordance with national and local policy guidance, and on the basis of the Council's specialist conservation advice.

CONSERVATION OFFICER:

The case officer and author of this report is qualified in Architectural Conservation and acts as the Conservation Officer for the Council. As such the comments of the Council's Conservation Officer are inherently incorporated into this report.

NORTH YORKSHIRE ARCHAEOLOGY:

The proposed development site lies within the historic core of Tadcaster, in an area with very high potential for the survival of well-preserved remains dating from the Roman period onwards. The site preparation works and any associated foundation and service trench excavations for the proposed development are likely to encounter features and finds of Romano-British, medieval and later date.

The County Archaeologist recommends that a scheme of archeological recording be carried out during the ground disturbance associated with the development proposals. This is in order that any archaeological remains discovered can be identified and recorded. The county Archaeologist goes on to state that 'I have considered the depth of proposed ground disturbance and degree of existing ground disturbance and advise that an archaeological watching brief would be appropriate' and that 'this advice is in accordance with the guidance of PPS5 'Planning for the Historic Environment''.

ENVIRONMENTAL HEALTH MANAGER (EHM):

The applicant has submitted a Tier 1 Desk Study Report conducted by ARP Associates detailing potential contamination that may be present at the proposed development site. The report indicates that the site was historically occupied by a blacksmith, and a small brewery. It is therefore likely that localised fill material may include ash derived from the burning of fuel.

The ARP report concludes that

'there are no viable potential source . pathway . receptor linkages, with the exception of future maintenance workers (for example excavation to place/repair services) and construction workers (during the proposed resurfacing works). Provided that sensible hygiene and standard PPE are utilised, including prevention of any dusting of the material during the works, by damping down if necessary, the risks are considered minimal.'

The EHM would concur with the findings of the ARP report as both the current and proposed use of site (tarmac covered car park) would break the pathway between any (possible) contaminants and any future receptors (general public) using the site.

Should planning permission be granted the attachment of a condition requiring a robust dust suppression scheme to be implemented during the construction phase of the development would mitigate the potential risk posed to public health. The imposition of such a condition would also ensure that the proposal does not detrimentally impact upon residential amenity.

NORTH YORKSHIRE HIGHWAY AUTHORITY:

No objections subject to an informative to make the applicant aware that works within the highway would require a licence.

NORTH YORKSHIRE POLICE (NYP):

An analysis of police recorded incidents covering the car park area has been carried out by the Safer York Partnership Crime Analyst. This covered a period from 1 November 2009 to the 31 October 2010. During this period there was one crime reported, which was in relation to a theft of a motor vehicle and no incidents of anti-social behaviour. The analysis clearly indicates that the current car parking facility is providing a safe environment for users.

North Yorkshire Police 'welcome the improvements to formalise this car park' stating 'the current car park surface is in a poor state of repair and has been patched up in numerous places'. The Police go on to note that the car park is 'uneven with areas of loose surface and has numerous pot holes' commenting that 'all this gives the impression that the car park and surrounding area is 'run down''.

North Yorkshire Police state that a clean and well kept car parking facility provides a more reassuring environment for users. The proposed upgraded car parking facility will have a clearly defined boundary utilising buildings, boundary walling and wooden bollards. It will retain overhead car park lighting, which North Yorkshire Police consider are appropriate and comply with British Standard 5489 (Secured by Design).

The drawings show that parking bays will be arranged in straight rows, which will aid natural surveillance and avoid the creation of blind spots. The drawings also show circulatory movement of vehicles around the parking areas, indicated by surface painted directional arrows, which will also aid surveillance. The Police also welcome the inclusion of ducting to cater for any future CCTV use.

In respect of risk management, the Police state that consideration could be given to the use of speed restrictors to avoid the potential for risk of injury to members of the public using the facility. North Yorkshire Police also advise that speed restrictors would also deter 'boy racer' type antisocial behaviour. Furthermore the Police advise that existing shrubbery/ trees at the entrance to the car park, if being retained needs to be 'cut back' or 'thinned out' in order to aid surveillance. The Police also advise that signage needs to clearly identify entrances and exits for both pedestrians and vehicles and question whether the recycle bins that are currently situated at the entrance will be retained opining that they are 'unsightly and are adding to the general run down feel of the area'.

North Yorkshire police conclude that 'measures proposed will enhance safety and security of this parking facility and vastly improve the immediate environment' and that users will be provided with a safe, non-threatening environment to park their vehicles. The proposal would meet the requirements of the Association of Chief Police Officers' ParkMark Safer Parking Award scheme.

YORKSHIRE WATER:

No response received.

ENVIRONMENT AGENCY:

The Environment Agency has no objection to the proposals as submitted, subject to the inclusion of the conditions to ensure that the development is only be carried out in accordance with the approved Flood Risk Assessment (FRA) and that oil interceptors are included within the drainage system.

SOUTH WHARFE INTERNAL DRAINAGE BOARD:

No response received.

PUBLICITY:

The application was advertised by site notice, by neighbour notification and by newspaper advertisement. Two letters of representation have been received.

The first letter raised the following comments: -

1. The objector questions why in these days of drastic cut backs is the Council considering spending a vast amount of public money on resurfacing the car park in a material that is inappropriate in a conservation area.
2. Despite the Council stating that it will support Tadcaster's role as a focus for sustainable growth, the proposal will do nothing to improve the viability of businesses in the town.
3. All the proposal will do is help prevent pedestrians tripping in the potholes, which should be regularly maintained as a matter of course.
4. The objector asks the question 'why waste council taxpayers money on a scheme that will do nothing to enhance or regenerate the conservation area, when in [the Council's] report [the Council] states 'while a move towards a more sustainable future is secured'. The objector opines that the Council is suggesting the proposals are a temporary measure.
5. The objector opines that it is even more beholden in these times of cutbacks for the Council to work alongside the private sector to secure the best possible deal/ scheme for the residents of Tadcaster.
6. The objector notes that there is already a scheme 'on the table' which will enhance and regenerate the whole of Tadcaster Central Conservation Area incorporating the relaying of the car park in natural materials.
7. The objector opines that after all the years of wrangling the residents of Tadcaster deserve better, they are dispirited with the ongoing impasse and the Council and the private sector should come together to implement a scheme that will transform the central area of Tadcaster.

The first part of second letter outlines a chronology of events in relation to the application site. In particular the letter notes that in 2002, North Yorkshire County Council undertook a consultation exercise in relation to a proposed Tadcaster Traffic Management Strategy, which outlined three options for the town centre. Subsequently on 11 September 2002 NYCC's Environmental Services Selby Area Committee resolved to adopt a Traffic management Strategy but that no decisions were taken as to the implementation of the

measures. The letter then goes on to outline applications that relate wholly or in part to the application site.

The letter then goes on to raise specific objections to the proposals on the following grounds: -

1. Land Ownership

The objector states that there are number of rights of access to land and buildings which are impinged upon or completely obstructed by the proposals. This primarily relates to the rear of 10-30 High Street, 11 Kirkgate and land to the rear of 30 Kirkgate.

In relation to 10-30 (even numbers) High Street the letter of objection states 'our client has serious reservations regarding the adequacy of access to this land if the proposed scheme were to proceed' and adds 'our client is concerned as to whether sufficient turning circles have been accommodated to allow service vehicles to access the rear of these properties'. The letter also states that 'circulation patters around the car park need to be sufficient to accommodate such vehicles accessing the rear of these properties without causing nuisance, obstruction or impacting on the safe operation of the car park.

The letter of objection goes on to state that rear of 11 Kirkgate has been proposed for the development of public car parking spaces to which SSOBT benefits from a legal right of access. They therefore reiterate their previous objection to 'development in this area as it prevented access to the rear of this building.

The letter also states that a similar right of access exists for the owners of 3 and 5 Kirkgate and that 'it would appear that the current proposals would obstruct these access points'.

In relation to the land to the rear of 30 High Street the letter states that this 'area of land benefits from an access onto the central area car park immediately adjacent to the proposed cycle/motorcycle storage and parking bays which would 'prevent access to this site'.

Given the above the objector states that 'the proposals submitted by the applicant appear to be unimplementable in practice and therefore on this basis alone do not merit the grant of planning permission.

2. Car Parking Provision

The objector notes that the proposal includes provision for 146 car parking spaces and opines that given the issues raised above this provision is likely to be significantly reduced. The objector goes on to state that spaces will also be lost by virtue of landscaping and the need to provide adequate provision for people with disabilities. The objector goes on to state that the 'current plans do not indicate any landscaping' and then

goes on to point to paragraph 5.4.13 of the Planning Statement which refers to 'new planting' and that the applicant would be willing to accept an appropriately worded condition to cover landscaping.

The objector states that although the applicant may well be willing to accept a condition, such a condition would need to be achievable and that this information needs to be received in advance of a decision being made so that its impact on parking numbers and the conservation area can be determined.

The objector states that upon reviewing the white lining plan, there are not enough spaces to cater for people with disabilities and that the spaces available are not provided with adequate circulation. The objector goes on to identify various guidelines, such as Manual for Streets, Traffic Advisory Leaflet 05/95, Inclusive Mobility and British Standard 8300:2009 that provide guidance on this issue.

The objector states that currently there are 4 car parking spaces to cater for people with disabilities within the existing car park, however the current proposal provides for only 3 and opines that this is significantly below the level that should be provided. The objector then goes on to note that whilst not specifically related to public car parks, Local plan policy VP4 states that for shopping development and places open to the general public where up to 200 places are required, 6% capacity should be provided for people with disabilities, which is consistent with the advice contained within BS8300:2009 and Advisory leaflet 05/95. As such the objector states that 8 spaces should be set aside for the needs of disabled persons.

In respect of the layout the objector notes that paragraph 5.6.2 of the Planning statement states that 'the space between the bay rows will be 6 m, which provides sufficient turning space for vehicles existing [sic] the bays in accordance with Manual for Streets (2007)'. The objector states that this is incorrect, as according to the plans this distance is between aisles is 5.8m and around the periphery of the site, the aisle width reduces to as little as 4.8 metres.

The objector notes that the white lining layout plan shows 3 disabled spaces in the northwest corner of the site and goes on to state that all three of these spaces are lacking in suitable circulation space. The documents referred to above recommend that parking bays are designed so that drivers and passengers, either of whom may be disabled, can get in and out of the car easily. They should allow wheelchair users to gain access from the side and the rear and be large enough to protect people from moving traffic. The objector therefore states that there should be 1.2 metres of circulation space around the sides and rear of each space and as such the proposal fails to meet current design guidelines.

The objector goes on to state that if the above issues are addressed this would reduce provision by at least 6 spaces at this part of the site and that

'when the access issues are taken into consideration, this loss will be even greater'.

The objector states that the level of provision cannot be achieved without beaching applicable guidelines and therefore, there will be a reduction to the existing provision and on this reason alone there is no proper or reasonable basis for the grant of consent.

The objector goes onto mention the alternative scheme for which SSOBT has received planning permission and which would result in an increase in car parking.

3. Impact on Listed buildings and the Conservation Area

The applicant notes that the site is located within a Conservation Area and that there are a number of important listed buildings adjoining and in close proximity to the site. As such the objector refers to Policy HE6 and HE7.5 of PPS5. The objector opines that 'there would be damage to the setting of these historic buildings and the character of the Conservation Area through the use of large areas of inappropriate and unsympathetic surfacing materials, insufficient landscape proposals and inappropriate detailing such as cycle storage and security rails such that the proposal would breach the statutory duties imposed on the Council'.

The objector states that the 'surfacing of the car parking area in a tarmac finish is completely inappropriate for a redevelopment scheme such as this' and refers to the comments of Planning Officer in the report to Committee which stated 'The reuse of a tarmac finish is not considered by the Council to be a suitable material for use in this important Conservation Area'. The objector states that 'Nothing has changed in this regard'.

The objector states that the proposal would not enhance the character of the conservation area and in relation to whether it preserves the conservation area alludes to paragraph HE10.1 of PPS4 which states

'When considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve these elements of the setting that make a positive contribution to or better reveal the significance of the asset.'

The objector goes on to conclude that the resurfacing of the car park with 'inappropriate materials and an unsympathetic design fails to meet the requirement of the policy. The objector also states that paragraph 5.4.19 of the supporting statement acknowledges that York sett stones would enhance the Conservation area but concedes that this is not a deliverable option.

In respect to elements of a conservation area that do not positively contribute the objector notes that Policy HE9.5 of PPS5 states

'Where an element does not positively contribute to its significance, local planning authorities should take into account the desirability of enhancing or better revealing the significance of the World Heritage Site or Conservation area, including where appropriate through development of that element. This should be seen as part of the process of place-shaping.'

The objector goes on to state that (1) the application site detracts from the Conservation Area and therefore redevelopment of the site presents an opportunity to devise a scheme which would have a positive impact on the conservation Area, (2) a simple resurfacing cannot be considered the type of enhancement envisaged by this advice and (3) the proposal would prolong the negative effects of the current surface treatment and perpetuate the current poor condition of the Conservation Area in this location.

The objector states that in consenting to an Order of the High Court quashing the Council's previous planning permission for a similar scheme layout, the Council expressly acknowledged that it did so on a number of grounds including failure to comply with the requirements of section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the advice within the former PPG15. The objector states that the same error is to be repeated in the current application.

The objector notes that the Planning Supporting Statement asserts that the proposal will result in an improvement to the appearance of the car park and that Policy HE7.6 of PPS5 states

'Where there is evidence of deliberate neglect of or damage to a heritage asset in the hope of obtaining consent, the resultant deteriorated state of the heritage asset should not be a factor taken into account in any decision'.

In this respect the objector goes on to comment 'Whilst we would not go so far to say the Council has deliberately neglected the car park, it is nevertheless under the Council's control and they have the responsibility for its upkeep' continuing 'the current poor state of disrepair of the car park is the Council's own doing and cannot be a relevant factor taken into account during the decision process in the way proposed. The objector refers again to the alternative scheme which they state would significantly improve the conservation area and which they state the Council has failed to take forward in any meaningful way.

The objector notes that English Heritage have not decided to comment on the current application but states that English Heritage's previous comments in relation to past schemes must still form a material consideration in the determination of the current scheme.

3. Archaeology

The objector states site is located within the historic core of Tadcaster where there is a high probability that the development would encounter archaeologist remains and as such refers to policy ENV28 of the Local Plan. The objector goes on to state that whilst the applicant has submitted a desk-based study this does not provide sufficient information to allow the Local Planning Authority to conduct a full and informed assessment.

The objector notes that the Historic Environment Team of North Yorkshire County Council 's view is that a condition to secure a suitable scheme of archaeological recording would be appropriate. However the objector notes that this approach differs from their response to a recent application at the rear of 19 Westgate (LPA reference 2010/0986/FUL) where it was recommended that trial trenching would be required before a decision was made. The objector opines that these two approaches lack consistency and transparency.

The objector states that the matter cannot be dealt with by condition because 'a condition has to be capable of being satisfied and the development commencing' and goes on to suggest that 'without the investigations/trenching we currently do not know what the situation is and as such the site may not be capable of being developed in the method proposed, rendering any potential pre-condition in conflict with Circular 11/95.

4. Street Furniture

The objector states that of relevance is the design and specification of street furniture and signage associated with the proposal and continues that from the application file and the information submitted it is not possible to determine the colour, appearance or specification of these elements of the proposal. The objector states that these details will need to be fully considered before any planning permission can be granted as the introduction of, for example cycle storage and security rails has the potential to harmfully impact on the Conservation Area.

5. Design and Landscaping

The objector notes that the Government stresses throughout its advice the importance of good urban design and landscaping within all development proposals and refers to paragraph 34 of PPS1, which states

'Planning authorities should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider development schemes. Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.'

In this respect the objector opines that the current proposal represents a bland, unimaginative and disappointing approach with scant regard to the aesthetic qualities and features of the town centre and which has failed to take account of historic features within the town centre such as natural stone steps, mounting blocks and other street furniture along Vicarage Lane.

The objector states that there is no specimen tree planting or other areas of landscaping proposed as part of the application, and no consideration of boundary treatment.

6. Pedestrian Safety

The objector states that the application makes no provision for safely accommodating the movement of pedestrians to, from and around the car park and that the car park as numerous pedestrian access points and is used as a short cut by pedestrians.

The objector states that the lack of formalised traffic circulation pattern, pedestrian access routes or legibility to the scheme upon completion are serious flaws in the proposal as it stands and goes on to state that the application makes no provision for the inclusion of public rights of way across the site and ignores the desirability of separating pedestrian and vehicular movements in and around the development.

The objector also states that there are a number of public rights of way and that these should be protected and where possible enhanced.

7. Alternative Scheme

The objector draws attention to the presence of the alternative approved scheme submitted by SSOBT, which includes the wider area of Tadcaster, which he considers would introduce more sustainable patterns of development within the town centre and a comprehensive and wide ranging approach to the problems which face the town. The objector draws attention to Local Plan Inspector's report at paragraph 19.166.

The objector goes on to state that the Council need to undertake a thorough comparative assessment of both schemes with the benefit of expert professional advice before a decision is made on this proposal.

8. Other Issues Raised

The budgetary constraints of the local district council cannot be considered a satisfactory reason for choosing inappropriate materials for a conservation area.

The proposals do not represent a reasonable use of public funds nor do they represent 'best value'.

POLICIES AND ISSUES:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be, made in accordance with the plan unless material considerations indicate otherwise". The development plan for the Selby District comprises of the policies in the Selby District Local Plan (adopted on 8 February 2005) saved by the direction of the Secretary of State and the Regional Spatial Strategy for Yorkshire and the Humber (adopted 2008).

Selby District Local Plan

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| ENV1: | Control of Development |
| ENV25: | Conservation Areas |
| ENV28: | Archaeology |
| VP2: | Protection of Car Parking Provision |
| T1: | Location of Development to Highways |
| TAD/4: | Environmental Improvement |

Regional Spatial Strategy

In respect of the recent announcement by the Secretary of State in regard to his stated intention to abolish regional spatial strategies and the subsequent challenge by Cala Homes, the courts have ruled that the letters of the Secretary of State are material and that it is up to local planning authorities to determine what weight should be afforded to them. Officers consider that, at this point in time, given the letters merely refer to an intention to abolish regional spatial strategies and that the abolition is dependent on the passage of the Localism Bill through Parliament substantial weight should still be afforded to the Regional Spatial Strategy and that only limited weight should be afforded to the letter from the Secretary of State.

Relevant policies include:

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| YH2: | Climate Change and Resource Use |
| YH6: | Local Service Centres |
| ENV9: | Historic Environment |
| E2: | Town Centre and Major Facilities |

Other Policy Considerations

National Policy

Relevant national policies include:

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| PPS1: | Delivering Sustainable Development (2005) |
| PPS4: | Planning for Sustainable Economic Growth (2009) |
| PPS5: | Planning for the Historic Environment (2010) |

PPG13: Transport (2001)
PPS23: Planning and pollution Control (2004)
PPS25: Development and Flood Risk (revised march 2010)
Safer Places-The Planning System and Crime Prevention.

Assessment

The relevant issues to be taken into account in the determination of this application are: -

1. The principle of the proposed development.
2. Impact upon the character and appearance of the conservation area.
3. The effect upon the setting of listed buildings.
4. The impact on archaeology.
5. The effect on the amenity of adjoining occupiers.
6. Car park capacity and impact on highway safety.
7. The needs of disabled and other inconvenienced persons.
8. Sustainability.
9. Flood Risk.
10. Contaminated land.
11. Crime and the fear of crime.
12. Impact on the viability of the Town Centre.
13. Impact on other approved schemes.
14. Other issues raised by objectors.

Environmental Impact Assessment

This application has been considered within the context of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) with a view to determining whether and Environmental Impact Assessment was required. Taking account the requirements of the Regulations and the guidance contained in Circular 02/99 it was determined that an Environmental Impact Assessment was not required in this case.

1. Principle of the Development.

Having had regard to the nature of the proposal, that it would not result in a material change in the use of the application site and that the site is located within the defined development limits of the market town of Tadcaster it is considered that the proposal is acceptable in principle. However proposals that are acceptable in principle are still required to meet all other relevant policies and guidance.

2. Impact Upon the Character and Appearance of the Conservation Area

Criteria 1 and 4 of Policy ENV1 of the Selby District Local Plan state that the Council, in considering proposals, will take into account 'the effect upon the

character of the area', and 'the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping'. Furthermore criterion 5 of policy ENV1 states that the Council will also take into account 'the potential loss, or adverse effect upon, significant buildings, related spaces, trees, wildlife habitats, archaeological or other features important to the character of the area'.

Having had regard to the above it is also noted that the site is located within the Tadcaster Conservation Area, and therefore, in addition to the tests required under Policy ENV1, the proposal should also be subject to the additional policy tests under Policy ENV25 of the Selby District Local Plan.

Policy ENV25 requires that 'development within or affecting a conservation area will be permitted provided the proposal would preserve or enhance the character and appearance of the conservation area' and then goes on to identify 4 criteria with which to assess proposals. These will be dealt with in turn later in this section of the report. Policy ENV25 of the Local Plan reflects the requirements of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to 'the desirability of preserving or enhancing the character or appearance' of a conservation area.

In *South Lakeland District Council v Secretary of State for the Environment* and another [1992 1 All ER 573] the House of Lords held that 'preserving the character and appearance of a conservation area could be achieved not only by a positive contribution to preservation but also by a development which left the character or appearance of the conservation area unharmed'. The ruling continued, stating 'accordingly; where a particular development would not adversely affect the character or appearance of the area and was otherwise unobjectionable on planning grounds there was no planning reason for refusing to allow it to proceed.'

Further to the above it is noted that the site is located within the commercial and shopping centre of Tadcaster, as designated on the Tadcaster proposals map of the Selby District Local Plan and therefore subject to Policy TAD/4 which states that the Council will 'seek, in cooperation with landowners, to introduce a comprehensive scheme of environmental improvements' and goes on to identify 7 areas in which the Council will seek to implement such a comprehensive scheme. Of relevance to the current proposal are subsections TAD/4(2), (3) and (7).

Section (2) of Policy TAD/4 states that the Council will ensure that 'new development respect[s] the scale, layout, design, height and materials of surrounding development and makes a positive contribution to the character of the area'. Furthermore Criterion (3) of Policy TAD/4 states that the Council will encourage 'coordinated schemes for landscaping, paving and street furniture with Criterion (7) stating that the Council will encourage the 'refurbishment and development schemes on sites within the central area'.

The above Local Plan policies are also supported by Policy ENV9 of the Regional Spatial Strategy which states that 'the Region will safeguard and enhance the historic environment, and ensure that historical context informs decisions about development and regeneration' and goes on to demonstrate 9 ways how plans, strategies, investments and programmes should conserve identified regionally distinctive elements of the historic environment, enhance their character and reinforce distinctiveness. Of relevance to the current application these distinctive elements include (1) 'roman military and civil settlements and communications' and (2) 'the unique record of historic urban development present as archaeological deposits in large areas of the regions cities and towns'.

National guidance in respect of planning and conservation areas is provided by PPS5. Under Annex 2 of PPS5 'conservation areas designated as such under relevant legislation' are classified as 'Designated Heritage Assets'. Policy HE6.1 of PPS5 outlines the information requirements for applications for consent affecting heritage assets stating 'local planning authorities should require an applicant to provide a description of significance of the heritage assets affected and the contribution of their setting to that significance'.

In respect of the requirements of Policy HE6.1 the applicant, in Section 5 of the Supporting Statement has provided a 'character appraisal of Tadcaster which includes a full review of PPS5 and the 1997 Tadcaster Conservation Area Character Assessment'. The assessment concludes that 'notwithstanding the general appearance of the area, the redevelopment of the car park cannot be considered to adversely impact upon any heritage asset and therefore the wider benefits of the scheme (improved drainage, appearance, access, landscaping etc.) clearly outweigh any harm proposed.

Policy HE9 outlines the additional policy principles guiding the consideration of applications for consent relating to designated heritage assets stating 'there should be a presumption in favour of the conservation of designated heritage assets' adding 'the more significant the heritage asset, the greater the presumption in favour of its conservation should be'. Of relevance to conservation areas and of particular relevance to the current application is Policy HE9.5, which states 'not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance, continuing ' where an element does not positively contribute to its significance, local planning authorities should take into account the desirability of enhancing or better revealing the significance of the World Heritage Site or Conservation Area, including where appropriate, through development of that element. This should be seen as part of place-shaping'.

In considering the assessment of the proposal in relation to its impact on the conservation area the starting point is policy ENV25 of the Selby District Local Plan. This has four main criteria against which the proposal will now be assessed.

Under criterion 1 of Policy ENV25, development within a conservation area should be permitted provided 'the scale, form position, design and materials of

new buildings are appropriate to the historic context'. In this respect it is noted that the proposal does not consist of a 'new building' and therefore this criterion is not relevant to the determination of this proposal.

Under criterion 2 of Policy ENV25, development within a conservation area should be permitted where 'features of townscape importance including open spaces, trees, verges, hedging and paving are retained'. In this respect it is noted that there are only two features of 'townscape importance' within the site, the openness of the site itself and three relatively small deciduous trees in soft landscaped islands. The trees are relatively small but do help to break up the expanse of car parking and in this small way do contribute to the character and appearance of the conservation area. However they will be retained by the proposal and it is recommended that any permission granted is subject to a condition to ensure that there is a scheme in place for the protection of the trees during the construction phase.

The openness of the site is somewhat a modern creation as the site was formerly densely covered in buildings, as evidenced by the 1909 Ordnance Survey maps. These were presumably demolished to make way for the car park in the latter half of the twentieth century. Nevertheless the car park together with the open land to the north of the application site do combine to give a feeling of openness within the heart of the conservation area, affording views of the large Brewery Buildings. Again the scheme would retain the general openness of the site.

In addition to the existing hard standing across the site and the drainage system will be removed. However these elements do not constitute 'features of townscape importance'.

In respect of the above it is therefore concluded that the proposal would not be contrary to criterion 2 of Policy ENV25 of the Selby District Local Plan.

Under criterion 3 of Policy ENV25 development within a conservation area should be permitted where the proposal would not 'adversely affect the setting of the area or significant views into or out of the area'. The proposal would entail the replacement of an area of tarmac and the delineation of car parking spaces and as such given the nature of the works it is considered that the proposal would not adversely affect the setting of the area or significant views into or out of the area.

In respect of the above it is therefore concluded that the proposal would not be contrary to criterion 3 of Policy ENV25 of the Selby District Local Plan.

Under criterion 4 of Policy ENV25 development within a conservation area should be permitted where the 'proposed use, external site works and boundary treatment are compatible with the character and appearance of the area'. In this respect it is noted that the use of the site and the boundary treatment would not change as a result of the proposal. Furthermore in respect of the 'external site works' it is noted that this would essentially involve the replacement of an area of worn, rutted patchwork of tarmac with

new tarmac and the provision of white lining, some replanting of existing soft landscaped areas the provision of an electricity housing cabinet and rails for the motor cycle parking area.

In the previous application the case officer advised that 'the reuse of a tarmac finish is not considered by the Council to be a suitable surfacing material for use within this important conservation area'. However it is noted that the site is already a public car park, which is already surfaced in tarmac, that such a feature constitutes a modern intervention within the historic fabric of the town centre and that tarmac is almost exclusively used within Tadcaster Conservation Area for surfacing public and private parking areas and public highways with a small exception at the junction of Kirkgate with High Street. As such the use of tarmac would not only reflect the current material used throughout the car park it would also reflect the predominant surfacing material used for parking areas and streets found throughout the conservation area.

This does not mean that the use of stone flagging or some other form of material would be unacceptable *per se*, or may even be considered superior. The policy test is not whether there are superior or better quality materials, or conversely that the proposed material is inferior to an alternative, but whether the proposed material is acceptable in its own right. For the reasons given above it is considered that the use of tarmac is acceptable as it meets the test set out in policy.

It is therefore considered that the external site works are compatible with the character and appearance of the conservation area.

As such it is concluded that the proposal would not be contrary to criterion 4 of Policy ENV25 of the Selby District Local Plan.

Overall Policy ENV25 requires that 'development within or affecting a conservation area should only be permitted where it would preserve or enhance the character and appearance of the conservation area'. Given the South Lakeland case a proposal would meet the test of preservation provided that it left the character or appearance of the conservation area unharmed. In this instance given the nature of the scheme it is considered that at worst, the proposal would not harm the character and appearance of the conservation area and as such would meet the requirements of Policy ENV25 of the Local Plan.

Notwithstanding the above it is noted that Section (2) of Policy TAD/4 states that the Council will ensure that 'new development respect[s] the scale, layout, design, height and materials of surrounding development and makes a positive contribution to the character of the area'. The Collins English Dictionary defines character as 'the combination of traits and qualities distinguishing the individual nature of a person or thing' and defines quality as 'distinguishing characteristic, property or attribute' and the 'degree or standard of excellence'.

Given that the proposal would entail the replacement of the worn surface of the car park with a new surface which would in fact improve the degree or standard of excellence and hence the quality of the car park and in this limited way it would make a 'positive contribution to the character of the area'. As such it is concluded that the proposal would not be contrary to Policy TAD/4 of the Selby District Local Plan.

In addition to the above it is noted that Criterion (3) of Policy TAD/4 states that the Council will encourage 'coordinated schemes for landscaping, paving and street furniture with Criterion (7) stating that the Council will encourage the 'refurbishment and development schemes on sites within the central area'. However although it is recognised that the proposal constitutes a stand alone scheme it is also noted that Criterion 3 of TAD/4 does not preclude the Council, or any other land owner coming forward with schemes for their own land and developing them in isolation.

In relation to national policy it is noted that Policy HE9.5 of PPS5 states that even where an element does not positively contribute to its significance, local planning authorities should take into account the desirability of enhancing or better revealing the significance of the World Heritage Site or Conservation Area, where appropriate through development. This should be seen as part of the process of place shaping'. However given the nature of the existing car park, the character of the conservation area and the nature of the proposal it is concluded that there is no scope for 'enhancing or better revealing the significance of the conservation Area'.

It has been argued in the past and continues to be argued by the objector that the scheme could be improved by the use of stone flagging. Certainly there are arguments that the use of stone flags could improve the aesthetics of the Conservation Area, but this is not the same as enhancing or better revealing its 'significance'. The significance of the Tadcaster Conservation Area is enshrined in its pattern of urban form and historic fabric. Car parks are relatively modern interventions within the historic fabric. This is no different for Tadcaster Central Area Car Park, which was developed in the mid to late twentieth century on the site of a dense collection of buildings.

Modern interventions into the historic environment should read as modern interventions. They should not seek to create a pastiche. Contemporary conservation philosophy does not seek to promote restorations, speculatively or otherwise or seek to deceive the observer that a modern intervention is part of the historic fabric

It is therefore considered that the use of traditional materials such as Yorkshire flagging would do little in respect of enhancing or better revealing the 'significance' of the conservation area, which is inherently enshrined within its historic fabric and pattern of land uses.

In respect to Policy HE7.6 of PPS5 and the objector's comments there on, it is abundantly clear that the Council, as owner has made repeated and determined attempts to keep the car park in a state of good repair and there is

no evidence to suggest that the applicant has deliberately neglected or damaged the surface of the car park. As such in respect of this issue it is considered that little weight should be afforded to the objector's comments.

The objector has also asserted that details of the landscaping, motorcycle parking frames and other items are required before permission is granted. With regards to landscaping the plans clearly show those areas of existing landscaping, which will be retained. The landscaping scheme would therefore relate to replanting of these areas to replace any damaged or dead shrubs. Such a scheme, by virtue of its size, scale and nature together with the fact that it would be located within a large car park would not have a significant impact on the character and appearance of the conservation area or the setting of nearby listed buildings.

Similarly given the size, scale and nature of other features, such as the parking metres/ electricity housing and the cycle rails, and the fact that they would be set within a car park surrounded by motor vehicles in a variety of bright colours and reflective finishes they need not have a significant impact on the character and appearance of the conservation area. As such it is considered that these details can be adequately dealt with by condition and it is recommended that any permission granted be subject to a condition requiring submission of these details.

Therefore having had regard to all relevant local, regional and national planning policies it is considered that the proposal, subject to the attached conditions, would preserve and enhance the character and appearance of the conservation area and therefore would not be contrary to Policies ENV25, ENV1, and TAD/4 of the Selby District Council, Policy ENV9 of the Regional Spatial Strategy and the policies contained within PPS5.

3. The Effect Upon the Setting of Listed Buildings

As stated in the site description of this report there are numerous listed buildings within the immediate vicinity of the site. The proposal therefore has the potential to impact on the setting of these listed buildings.

In this respect members attention is drawn to S66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to have special regard to the desirability of preserving the setting of a listed building or any features of a special architectural or historic importance which it possesses.

In addition to the above listed buildings constitute 'designated heritage assets' Annex 2 of PPS5. As such proposals affecting the setting of listed buildings are subject to Policies HE6, HE7, HE8.1, HE9 and in particular HE10. Again it is considered that the applicant has provided sufficient information to enable the significance of the designated heritage asset to be identified and potential impacts to be assessed.

Of particular relevance in relation to the setting of listed buildings is Policy HE10.1, which states that 'when considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval'.

Furthermore Policy HE10.2 of PPS5 states that 'local planning authorities should identify opportunities for changes in the setting to enhance or better reveal the significance of a heritage asset'.

The same issues in relation to the impact on the character and appearance of the conservation area apply equally in respect to the impacts on surrounding listed buildings.

Therefore having regard to the above and having taken into consideration views from each of the listed buildings towards the proposed development or from the proposed development towards the listed buildings, or from other points in which the application site and the surrounding listed buildings would be seen together it is considered that the proposal, by virtue of the reasons given in the section relating to impacts on the conservation area, would at worst have a neutral impact and therefore preserve the setting of the listed buildings within the vicinity of the application site

As such it is considered that the proposal would be acceptable having had regard to the requirements of PPS5.

4. The Impact on Archaeology

The site is located within Tadcaster town centre, which is designated as an 'Archaeology Consultation Zone'.

Criterion 5 of policy ENV1 states that the Council will also take into account, amongst other things 'the potential loss, or adverse effect upon, 'archaeological or other features important to the character of the area'. This is complemented by Policy ENV28(A) of the Local Plan which states that 'where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/ evaluation to be submitted as part of the planning application.

Policy ENV28 goes on to state that where development affecting archaeological remains is acceptable in principle the Council will require that such remains are preserved in situ, or where such an approach is not justified that arrangements are made by the developer to ensure that adequate time and resources are available to allow archaeological investigation and recording'.

The above is in accordance with Policy ENV9, particularly criterion B(9), of the Regional Spatial Strategy.

At national level, PPS5 'Planning for the Historic Environment' provides the policy context for assessing impacts of proposals on archaeological remains, which along with other parts of the historic environment that have 'significance' are called 'heritage assets'. Policy HE6.1 of PPS5 outlines the information requirements for application for consent affecting heritage assets stating 'local planning authorities should require an applicant to provide a description of significance of the heritage assets affected and the contribution of their setting to that significance' which in relation to heritage assets with archaeological interest should be in the form of an 'appropriate desk-based assessment and, where desk-based research is insufficient to properly assess the interest, a field evaluation'.

To this end the applicant has commissioned a Method Statement for a programme of Archaeological Recording, prepared by On Site Archaeology Ltd, which provides a desk-top based assessment of the archaeological interest of the application site and a mitigation strategy proposing a 'continuous archaeological monitoring of groundworks and preparation of a report'. In this respect it is concluded that the proposal accords with policy ENV28(A) of the Local Plan and Policy H6.1 of PPS5.

Policy HE7.1 of PPS5 identifies the principles guiding the determination of applications for consent relating to all heritage assets stating that 'in decision making local planning authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal. In particular local planning authorities are expected to take into account evidence provided by the applicant, any designation records, the historic environment record and similar sources of information, the heritage assets themselves and the outcome of the usual consultations with interested parties.

Policy HE7 continues with detailed guidance, which is inherently contained within the assessment of the proposal provided by the County Archaeologist. Of particular relevance to the current proposal is Policy HE7.7 which states that 'where loss of significance is justified on the merits of new development, local planning authorities should not permit the new development without taking all reasonable steps to ensure the new development will proceed after the loss has occurred by imposing appropriate planning conditions or securing obligations by agreement'.

The County Archaeologist has no objections to the proposal subject to a condition for an archaeological watching brief being attached to any permission granted.

It is therefore concluded that on the basis of the information submitted by the applicant, and assessed by the County Archaeologist, the limited disturbance of archaeological remains would be limited and outweighed by the benefits of

the scheme. Furthermore subject to the attached condition for a watching brief it is considered that adequate time and resources would be made available to allow archaeological investigation and recording.

The objector has opined that the application should not be determined until a full archaeological assessment including trial trenches has been undertaken, and has pointed out that this was a requirement of a recently refused application to the rear of Tadcaster Post Office. However each case should be determined on its own merits. In the case of the Post Office site this was considered to be particularly sensitive as it was on the site of the former medieval town ditch. In respect of Tadcaster Central Area Car Park the works would not be on the site of the town ditch, would not be particularly deep, and that the site has previously been disturbed when the car park was originally constructed. As such, it is considered that the archaeological assessment supplied by the applicant is adequate and that it is not necessary to undertake trial trenching before the application is determined.

As such it is concluded that the proposal would be in accordance with Policies ENV1 and ENV28 of the Selby District Local Plan, ENV9 of the Regional Spatial Strategy and the contents of PPS5.

5. The Effect on the Amenity of Adjoining Occupiers

Criterion 1 of Policy ENV1 states that the Council will also take into account, amongst other things 'the effect upon the amenity of adjoining occupiers. Given that the proposed use would be the same as the existing use and that the scheme would have a similar layout it is considered that the proposal would result in no additional harm to the amenity of the occupiers of adjoining properties.

As such the proposal would be in accordance with Criterion 1 of Policy ENV1 of the Selby District Local Plan.

6. Car Park Capacity and Impact on Highway Safety

Criterion 2 of Policy ENV1 states that the Council will take into account, amongst other things, 'the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking'.

With regard to the above it is noted that Tadcaster Central Area Car Park is one of several public, town centre car parks across the District, which is subject to Policy VP2 of the Selby District Local Plan. Policy VP2 states: -

'proposals which would result in the loss of off-street car parking spaces as defined on the proposals maps will not be permitted unless alternative provision, for at least the same number of spaces, can be made at an appropriate location, or it can be demonstrated that there is no longer a requirement for the existing level of car parking'.

Given the requirements of Policy VP2 a comparison has to be made as to the existing and proposed number of car parking spaces. However it is noted that there have been several changes to the extent and layout of the car park since the adoption of the Local Plan in 2005.

The Tadcaster Proposals Map of the Selby District Local Plan clearly shows the extent of the car park as it was at the time of the adoption of the Plan, when the figure of 153 car parking spaces was set. The extent of the car park on the proposals map shown on the plan and to which Policy VP2 applies, included the land to the south of the existing car park, which is owned by the Samuel Smith's Old Brewery. This land has now been separated from the public car park by bollards. It is 54 metres long and 4.8 metres deep along its whole length. Taking into account the existing vehicular accesses into the properties at 10-30 High Street it is considered that this strip of land could accommodate up to 18 car parking spaces.

In addition to the above it is noted that the public toilet, which was located centrally within the site, has been demolished and is now used as an additional 8 car parking spaces.

Given the above changes it is considered that the area of the Central Area Car park, as defined by the application site red line boundary as a theoretical capacity to accommodate 143 cars.

Given that the proposal includes provision for 146 car parking spaces it is concluded that it would not result in the loss of off-street car parking spaces. In this respect the proposal is not contrary to Policy VP2 of the Selby District Local Plan

In respect of the comments from the objector about rights of access to the rear of 10-30 High Street, 3, 5 and 11 Kirkgate and land to the rear of 30 High Street these will now be considered in turn.

In relation to 10-30 High Street it is noted that the objector states 'our client has serious reservations regarding the adequacy of access to this land if the proposed scheme were to proceed'. However it is noted that the proposed circulation aisle width between the southern end of the car parking bays and the land in the ownership of the Brewery varies from between 6.2m to 5m. In addition the letter does not give details of the extent or nature of the right of access or state that the proposal will actually prevent lawful rights of access, merely limiting itself to the observation that the client 'had serious reservations'.

In the current situation there are no clearly marked car parking bays and therefore cars parked on the southern end of the informal car parking areas could and do reduce the width of the circulation aisles. Indeed at the case officer's site visit he observed that actual car parking practises reduced the width of the aisle to between 4.5m and 4.25m. Furthermore it is noted that no evidence has been produced to suggest that the current situation has resulted

in on going litigation or concerns expressed that it has reduced or impinged in any way the private access rights that exist.

Having considered the situation as it currently exists, it is concluded that the proposal would not have an impact on the private access and indeed would help the Council to manage the car park to ensure that the right of access is not impeded.

In respect to the private right of access to 3, 5 and 11 Kirkgate again it is noted that no information has been supplied to clarify the extent of the right of access. Parking already takes place in the areas indicated in the drawings and no information or evidence had been presented to suggest that the current situation impinges on any private right of access. Furthermore during the case officer's site inspection nothing was observed to suggest that the proposed parking bays would restrict any private access.

In relation to the land to the rear of 30 High Street the letter states that this 'area of land benefits from an access onto the central area car park immediately adjacent to the proposed cycle/motorcycle storage and parking bays which would 'prevent access to this site'. However it is noted that the representation does not claim that this access is a legal private right of way and as such on the basis of the information provided little weight should be attached to this issue.

Therefore having considered the representations received it is considered that no substantial evidence has been submitted to suggest that the proposals would be 'unimplementable in practice' due to the requirement to protect private rights of way.

It is also noted that representations have been received objecting to the proposal on the grounds that the proposal does not make adequate provision for landscaping, parking for disabled people in line with current guidance and adequate provision for turning and circulation in line with current guidance. The objector goes on to opine that the level of provision of car parking cannot be achieved without breaching applicable guidelines and therefore, there will be a reduction to the existing provision and on this reason alone there is no proper or reasonable basis for the grant of consent.

While it is recognised that various guidelines for the setting out of car parks, and in particular provision for parking for people with disabilities (such as Manual for Streets, Traffic Advisory Leaflet 05/95, Inclusive Mobility and British Standard 8300.2009) exist it should not be automatically presumed that non compliance with these guidelines should result in the refusal of a scheme. First it should be recognised that the above manuals and circulars are in the nature of guidance and that there may be particular circumstances in which adherence to the guidelines may be difficult, or on balance, have undesirable impacts.

In this instance the Central Area Car Park is comprised of an existing unmarked car park, which does not in many respects meet the requirements

of the above guidance. The issue is therefore whether the proposal would improve the current situation rather than whether it would meet guidance. Again looking at the way the current car park is used, gleaned from the case officer's site visits it is considered that the proposal would result in an improvement on the current situation.

The only exception to the above is the fact that the current proposal would, if implemented, result in the loss of one car parking space for disabled persons. This could be easily remedied by a remarking out of the car parking spaces in the north-east corner of the site to include provision for an additional space for use by people with disabilities. The submitted plans show that there is room to accommodate this without impeding the function of the car park or private rights of way. As such it is recommended that any permission granted is subject to a condition to show a scheme for an amendment of the designated car parking bays in the north east corner to provide a fourth car parking bay.

In respect to landscaping it is clear from the drawing that no new areas of soft landscaping will be created. Landscaping will relate to the improvement, where required, of existing soft landscaped areas. This, on balance, is considered adequate. Furthermore such provision would not result detract from the overall parking provision within the car park.

In addition to the above criterion 3 of Policy ENV1 states that the Council will also take into account 'the capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure'. In this respect it is noted that the highway authority as no objection to the proposal subject to informatives being placed on any permission granted. Therefore having regard to the changes in parking capacity within the car park and the comments of the highway authority it is concluded that the proposal would not be contrary to Criterion 3 of Policy ENV 1 and Policy T1 of the Selby District Local Plan.

7. The Needs of Disabled and Other Inconvenienced Persons

Criterion 6 of Policy ENV1 states that the Council will take into account the needs of disabled and other inconvenienced persons. In this respect and as noted in the previous section of this report the proposal would include three marked bays for people with disabilities. This in effect would reduce parking provision from the four disabled parking bays that exist. However after considering the submitted plans it is clear that there is space within the north east corner of the site to provide a fourth bay for use by disabled people. This would require a simple remarking of the bays and could be done by condition.

Furthermore the proposal would eliminate the rutted and uneven surface and replace it with an even surface thereby reducing tripping hazards and providing a more usable surface for people who are less mobile particularly people within wheelchairs. As such the proposal, subject to a condition for the remarking out of an additional disabled parking bay, is considered acceptable in relation to Criterion 6 of Policy ENV1 of the Selby District Local Plan.

8. Sustainability

Criterion 7 of Policy ENV1 states that the Council will take into account the need to maximise opportunities for energy conservation through design, orientation and construction. Given the nature of the scheme it is considered that there are little or no opportunities for energy conservation through design, orientation and construction that could be controlled through the planning system.

In respect of climate change and resource use Policy YH2 of the Regional Spatial Strategy states that plans etc should help to meet the target set out in the RES to reduce greenhouse gas emissions in the region in 2016 by 20-25% (compared to 1990 levels) with further reduction thereafter by (1) increasing population, development and activity in cities and towns; and (4) reducing traffic growth through appropriate location of development, demand management and improving public transport and facilities for walking and cycling. In this respect it is noted that the promotion of the viability and vitality of towns and cities is an essential part of achieving sustainable economic growth. Whereas Policy YH2 of the RSS sets targets for greenhouse gas reductions, it does not envisage a future without any dependency on the private car. Many people, especially in rural hinterlands, will still rely on the private car to access goods and services and their patronage of town centres in turn will help to promote viability and vitality. As such a balance needs to be struck between promoting sustainable forms of travel and the promotion of the vitality and viability of towns so that they act as the foci for sustainable economic growth. It is considered that the current scheme achieves an acceptable balance between these needs.

Other Material Considerations

9. Flood Risk

Although most of the site falls within Flood Zone 1 the eastern side of the application site falls within Flood Zone 2 on the Environment Agency's Flood Risk Maps. Although the proposal includes work to replace one area of hardstanding with a similar one and the repair of a collapsed drainage system Annex D1 of PPS25 states 'the risk based Sequential Test should be applied to all stages of planning' continuing 'its aim is to steer new development to areas at the lowest probability of flooding (Zone 1).

Having had regard to the nature of the proposal it is considered that the area of search to apply the sequential test should be limited to the existing car park. Furthermore, given the existing layout of the car park, the nature of the scheme, the need to retain car parking under Policy VP2 and the constraints of the site it is considered there are no sequentially preferable locations or

alternatives to the proposal. As such it is concluded that the proposal meets the sequential test.

Public car parks are not specifically referred to in the Flood Risk Vulnerability Classification in Table D.2 of PPS25. However, having considered the types of development within the table it is concluded that public car parks fit most comfortably within the classification of 'less vulnerable'. This being so it is concluded that having had regard to Table D.3 'Flood Risk Vulnerability and Flood Zone Compatibility' the proposed development is appropriate at this location.

In addition to the above the applicant has submitted a 'Flood Risk Assessment Report' and drainage assessment prepared by ARP Associates to which the Environment Agency has no objection subject to conditions.

Having had regard to the report and its conclusions and the comments of the Environment Agency it is considered that the proposal is acceptable in terms of flood risk and drainage and would not be contrary to PPS25.

10. Contaminated Land

The site is located within a town centre location and therefore could be potentially subject to land contamination. To this end the applicant has commissioned a Tier 1 Contamination Desk Top Survey. This states that although 'the site was occupied by buildings prior to the use as a car park' and that 'the buildings were many and typical of a small town centre, comprising generally small shops, houses, pubs, doctors surgery, blacksmith and a small brewery' it is considered unlikely that there is contamination present which would have any significant impact on the existing and proposed use of the site as a car park'.

The Tier 1 report concludes that the 'risk assessment indicates there are no viable potential source-pathway-receptor linkages, with the exception of future maintenance workers' and that 'provided that sensible hygiene and standard PPE are utilised, including prevention of any dusting of the materials during the works, by dampening down if necessary, the risks are considered minimal'.

Having regard to the above it is noted that the Environmental Health Manager concurs with the findings. As such it is concluded that subject to conditions to require a scheme for dust suppression the proposal is acceptable in terms of land contamination and public health and is not contrary to PPS23.

11. Crime and the Fear of Crime

The comments of North Yorkshire police are noted and it is concluded that the proposal would not give rise to crime or increase fear of crime. In this respect the proposal would not be contrary to Safer Places-The Planning System and Crime Prevention (Companion Guide to Planning Policy Statement 1).

12. Impact on the Viability of the Town Centre

National policy in PPS1 and PPS4 and Policies YH6 and E2 seek to strengthen the viability and vitality of town centres. It is considered that the proposal, by virtue of its nature, particularly the way in which it promotes community inclusiveness by catering for the access needs of all members of the community and the improvement in the appearance of the environment would not conflict with the aims and objectives of the above policies.

13. Impact on Other Approved Schemes

During previous applications for this site objections have been received on the grounds that the proposal would prejudice the scheme approved under planning permission CO/2002/1219, granted to Samuel Smith's Brewery. It is noted that all conditions precedent have been discharged in respect to this permission and that the development has commenced. However it is also noted that planning permission goes with the land and it is possible for a number of applications to be granted on the same parcel of land. The ability to implement such schemes would rest with the party that has control over the land. As such it is considered that little weight should be granted to this issue.

14. Issues Raised by Objectors

In respect of the comments made about the toilet block it is noted that all applications should be considered on their individual merits. Whether or not there has been an agreement to provide a new toilet block, such a block does not form part of the current proposal and there is no policy requirement for the applicant to provide such a block as part of this application. Any future proposal for a toilet block would be considered on its merits at that stage.

Issues in relation to public sector cut backs, the budgetary constraints of the local district council, the cost of the scheme in comparison to other schemes, whether the proposals represent a reasonable use of public funds or 'best value' or not and who the applicant is working or not working in partnership with are not material to the determination of this application.

The implications for other schemes are dealt with above. However it is noted that it is possible for a variety of approved schemes to exist on a single site. The ability to implement such schemes lies with the landowner. Furthermore the existence of an alternative scheme(s) does not prevent the approval of subsequent schemes. Similarly it does not prejudice the ability of a landowner/ recipient of planning permission to submit a revised scheme, which may exclude land that was the subject of a previous permission.

The objector mentions features of townscape importance on Vicarage Lane. However Vicarage Lane does not form part of the application site and therefore would not be directly affected by the proposals. As such little weight should be afforded to this issue.

CONCLUSION

Having had regard to all relevant policies and other material considerations, including sections 66(1) and 72(1) of the Listed Buildings and Conservation Areas Act 1990, it is considered that the proposal is acceptable in principle and by virtue of its nature would preserve and enhance the character and appearance of the Tadcaster Conservation Area and the setting of nearby listed buildings. Furthermore the proposal subject to a condition for a watching brief would be acceptable in relation to its impact on archaeology. As such the proposal would be acceptable in relation to its impacts on Designated Heritage Assets and therefore, in this respect, the requirements of Policies ENV1, TAD/4, ENV25 and ENV28 of the Selby District Local Plan, Policy ENV9 of the RSS and the requirements of PPS5.

After taking into account changes to the extent and layout of the car park and the comments made by an objector in relation to private rights of way and guidance for the laying out of car parks it is considered that the proposal would not result in a loss of car parking spaces and therefore would not be contrary to Policy VP2 of the Selby District Local Plan.

Having regard to the changes in parking capacity within the car park and the comments of the highway authority it is concluded that the proposal would not be contrary to Criterion 3 of Policy ENV 1 and Policy T1 of the Selby District Local Plan.

In addition to the above proposal would not result in demonstrable harm to the objectives of promoting sustainable development, safe environments, reducing flood risk, safeguarding amenity or promoting the viability and vitality of town centres, and in this respect the proposal would not be contrary to Policies ENV1, T1, or policies YH2, YH6 and E2 of the RSS or conflict with the aims of PPS1, PPS4, PPS25 and 'Safer Places-The Planning System and Crime Prevention.

Furthermore, subject to conditions to require a scheme for dust suppression the proposal is acceptable in terms of land contamination and public health and is not contrary to PPS23 and due to the nature of the proposal it would not harm residential amenity and in this respect would not be contrary to Policy ENV1 of the Selby District Local Plan.

In addition to the above the proposal would provide increased legibility by clearly delineating car parking bays and circulation areas, ensuring that the potential use of the car park is realised and that the potential for conflicts between users of the car park and private access rights are reduced.

No other issues raised by objectors are considered to be of sufficient weight to outweigh the benefits of the proposal so as to justify refusal of the application and therefore it is considered that the proposal is acceptable.

RECOMMENDATION

This application is recommended for Approval subject to the attached conditions: -

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by ARP, ref: 1144/01, dated Aug 2010 and the following mitigation measures detailed within the FRA:

- (a) There shall be no raising of ground levels, as detailed on Page 12, Section 6.17

Reason:

To ensure there is no increase in flood risk in the locality in accordance with PPS25.

3. The development hereby permitted shall not be commenced until such time as a scheme to install oil interceptors has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason:

To prevent pollution of the water environment in accordance with PPS23.

4. Prior to the commencement of the development, hereby approved, details of the materials to be used in the construction of the exterior walls and roof of the Electricity Supply Housing, including paint/ colour coating of the doors, and the materials and finish for the rails used for the motorcycle parking bays shall be submitted to and approved in writing by the Local Planning Authority. Only the approved materials and finishes shall be utilised.

Reason:

In the interests of visual amenity and to ensure that the development preserves and enhances the character and appearance of the Tadcaster Conservation Area and the setting of nearby listed buildings in accordance with Policy ENV1 and ENV25 of the Selby District Local Plan and PPS5.

5. Before any development is commenced the approval of the Local Planning Authority is required to a scheme of landscaping for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason:

To safeguard the rights of control by the Local Planning Authority in the interests of amenity having had regard to Policy ENV1 and ENV25 of the Selby District Local Plan and PPS5.

6. The development shall be implemented in accordance with the Method Statement for a Programme of Archaeological recording, dated November 2010, prepared by On Site Archaeology Ltd.

Reason:

The site is of archaeological interest and in accordance with Policy ENV28 of the Selby District Local Plan, Policy ENV9 of the RSS and PPS5.

7. The development hereby approved shall not commence until a scheme for the protection of the three existing fruit trees has been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved scheme.

Reason:

To protect the character and appearance of the Tadcaster Conservation Area in accordance with Policy ENV25 of the Selby District Local Plan, Policy ENV9 of the RSS and PPS5.

8. Notwithstanding the details of the submitted plans the development, hereby approved, shall not commence until a scheme for the provision of a fourth car parking space for use by people with disabilities is submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the submitted scheme.

Reason:

To ensure that the level of parking provision for people with disabilities is protected in order to foster an inclusive community in accordance with the PPS1.

INFORMATIVES

North Yorkshire County Council Highway Authority advise that the approved work may include replacing carriageway surfacing, kerbs, footways and lining works to the proper line and level. As such you are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The local office of the Highway Authority will also be pleased to provide the detailed construction specification referred to in this condition.