

**Meeting:** Thirsk and Malton Area Constituency Planning Committee

**Members:** Councillors Joy Andrews (Vice-Chair), Alyson Baker, Lindsay Burr MBE, Sam Cross, Caroline Goodrick (Chair), Nigel Knapton and Malcolm Taylor.

**Date:** Thursday, 19th October, 2023

**Time:** 10.00 am

**Venue:** Ryedale House, Malton

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### **Agenda**

1. **Apologies for Absence**
2. **Minutes for the Meeting held on 20 July 2023** (Pages 3 - 6)  
To confirm the minutes of the meeting held on 20 July 2023 as an accurate record.
3. **Declarations of Interests**  
All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.
4. **ZB23/01194/FUL - Construction of 4 No. bungalows** (Pages 7 - 30)  
**including creation of new vehicular access**  
Report of the Assistant Director Planning – Community Development Services
5. **23-00196-MOUT - Outline application for the erection of 19** (Pages 31 -  
**No. dwellings with associated highways and drainage works** 62)  
Report of the Assistant Director Planning – Community Development Services

6. **23/00197/FUL - Change of use of land for the sitting of 6No. shepherds huts for use as holiday accommodation** (Pages 63 - 88)  
Report of the Assistant Director Planning – Community Development Services
7. **Any other items**  
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.
8. **Date of Next Meeting**  
Thursday, 16 November 2023 at 10.00am

Members are reminded that in order to expedite business at the meeting and enable Officers to adapt their presentations to address areas causing difficulty, they are encouraged to contact Officers prior to the meeting with questions on technical issues in reports.

**Agenda Contact Officer:**

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Wednesday, 11 October 2023

## North Yorkshire Council

### Thirsk and Malton Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 20th July, 2023 commencing at 10.00 am.

Councillor Caroline Goodrick in the Chair, plus Councillors Alyson Baker, George Jabbour, Nigel Knapton, Malcolm Taylor and Steve Mason (Substitute for Joy Andrews).

Officers Present: Alpha Love-Koh and Lily Hamilton, Democratic Services Officer and Hugh Smith, Senior Planning Officer.

Apologies: Councillor Joy Andrews and Lindsay Burr MBE.

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**Copies of all documents considered are in the Minute Book**

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#### **28 Apologies for Absence**

Apologies noted (see above).

#### **29 Minutes for the Meeting held on 15 June 2023**

Minutes of the meeting held on 15 June 2023 were confirmed and signed as an accurate record.

#### **30 Declarations of Interests**

There were no declarations of interest.

#### **31 Public Questions and Statements**

The Chair informed the Committee that this item would be taken out of numerical order, and it was addressed following the conclusion of Item 5.

There was one public statement from Phillip Tate which was shared by the Chair of the Committee.

*" I fully appreciate that this Committee is still feeling its way as part of a new Unitary Authority but I would like to make a suggestion that could transform it from being simply a variant of its original form to something much more exciting and proactive. The suggestion is predominantly concerned with Housing policy but could equally apply to Industrial development.*

*At present, Planning policy is essentially a wish list of ambitions which is used to determine whether or not an Application should be granted Approval. This is generally known as Development Control. Only rarely does a Planning Authority actually initiates Development. I think the direction of travel should be completely different. I think that a Planning Authority should be the sole purchaser of land for Development and use its power of Compulsory Purchase to acquire land that it has previously determined would be in its region's interest to develop.*

*When land is Compulsorily Purchased, the Vendor only receives the value of the land at*

*the time of its sale. This value is not inflated by the intended use of the land. Thus farmland earmarked for Housing Development would be acquired at the going rate for Agricultural land. The land would then be put on the open market for sale and the uplift in value would accrue to the Planning Authority and not the original owner. This money could then be used to subsidise social housing.*

*The land could also be sold with pre-conditions for such things as the mix of housing , its density and the provision of amenity.*

*Moving towards this model should be attractive to both Councillors and Officers. The elected members could actively improve their community and the Officers would be able to use their training in Town Planning constructively instead of merely reacting to unsolicited applications.*

*But there is a warning that comes with this suggestion. I had originally intended to ask a question about an Application in my own neighbourhood to site a temporary home. This application has been under consideration for eighteen months. Clearly if we are going to move towards a proactive form of Planning and Development , we are going to need a style of management that is worthy of such responsibility. Decision making is going to need to be fleet of foot and able to evaluate considerations that are genuinely material to a proposed development. Last month in reviewing the scheme for 43 houses in South Kilvington , it was felt necessary to mention that both a fox and a deer had been spotted on the proposed site. Of the members present, not a single eye was rolled.*

*I look forward to hearing Members initial thoughts about acquiring land and positively driving an Agenda for Development using powers of Compulsory Purchase. "*

Jill Thompson, Planning and Development Manager gave the following statement which was read by the Chair of the Committee:

*"Thank you for your statement and suggestions.*

*Unfortunately, this is not a matter that the area planning committee can provide a detailed response to. The question will be referred to the Council's legal and estates teams and the relevant Portfolio Holders and a full response will be provided in due course."*

**32 21/00480/FL - CONSTRUCTION OF 44NO. TWO, THREE AND FOUR BEDROOM, TWO STOREY DWELLINGS WITH ASSOCIATED GARAGES AND INFRASTRUCTURE INCLUDING DRAINAGE ATTENUATION BASIN, OPEN SPACE AND PLAY AREA AT LAND ON THE SOUTH SIDE OF SANDS LANE HUNMANBY YO14 0LT ON BEHALF OF GLEESON REGENERATION LTD, M COPE, E COPE & J BAILEY**

Considered:

The Assistant Director Planning – Community Development Services sought determination of a planning application for the construction of 44no. two-, three- and four-bedroom, two storey dwellings with associated garages and infrastructure including drainage attenuation basin, open space and plan area on land on the south side of Sands Lane, Hunmanby.

The Planning Officer reported two consultation responses as an update : The Local Lead Flood Authority confirmed no objection to the Exceedance Flow Plan, but some additional information relating to micro-drainage calculations is still required; the Environmental Health Officer does not object to the application, subject to suitable acoustic protection from railway noise. These matters would be delegated to officers in accordance with the recommendation and in consultation with the Committee Chair and Vice-Chair.

The applicant's agent Matt Smith spoke in support of the application.

During consideration of the above application, the Committee discussed the following issues:

- The location of the affordable houses, and how these are situated amongst the development.
- The future management of the play area, and if the Parish Council have been offered a role in this.
- Whether a benchmark had been taken for Biodiversity net gain.
- The benefits of a construction management plan to control the hours of work for surrounding residents.

The Committee indicated that they were minded to grant permission subject to site construction hours being specified in a relevant condition, as well as a benchmark for biodiversity net gain being established, with delegation of the decision following consultation with the Chair.

#### Voting Record

A vote was taken and the motion was declared carried unanimously.

### **33 Any other items**

The Chair invited Councillor Jabbour to confirm that due to a change in political proportionality he is no longer on this committee and two appointments have been made, Councillor Cross as a committee member and Councillor Andrews as Vice-Chair.

### **34 Date of Next Meeting**

Thursday 17 August 2023 – Ryedale House, Malton

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**North Yorkshire Council**  
**Community Development Services**  
**Thirsk and Malton Constituency Planning Committee**  
**19<sup>th</sup> October 2023**

**ZB23/01194/FUL - Construction of 4 No. bungalows including creation of new vehicular access**

**At: OS Field 2211, South Back Lane, Tollerton, North Yorkshire,**  
**On behalf of: Venturi Homes Limited**

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

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To determine an application for full planning permission for a residential development at OS Field 2211, South Back Lane, Tollerton.
- 1.2 This application is referred to the Planning Committee owing to the complex planning matters it presents.

## **2.0 SUMMARY**

### **RECOMMENDATION:**

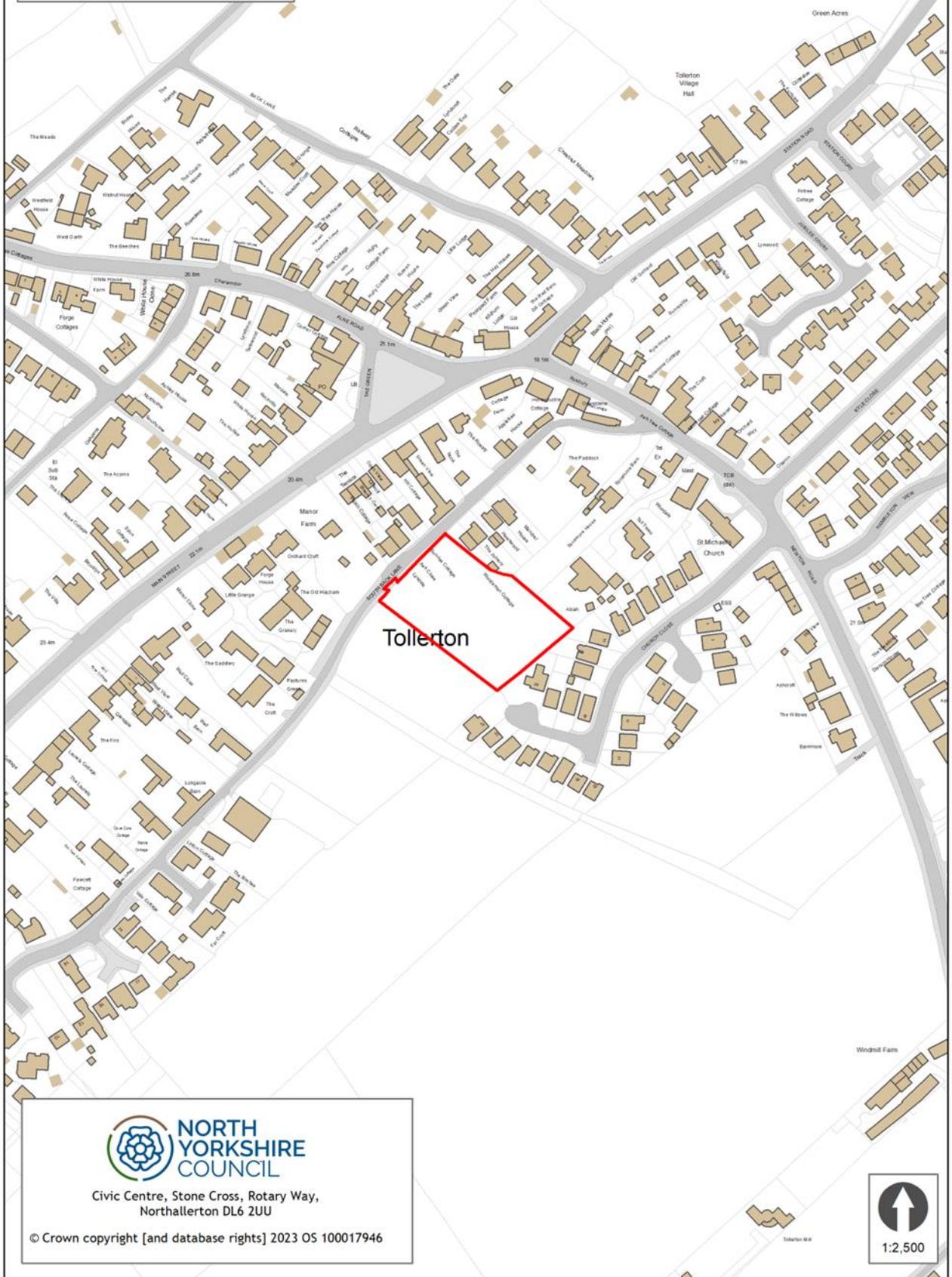
- 2.1 That outline planning permission be **GRANTED** subject to the conditions set out in Section 12 of this report.
- 2.2 The development proposed comprises of four bungalows on the north-eastern part of a greenfield site that lies between Church Close, a C20 residential estate to the east, and South Back Lane, a road that runs parallel to Main Street in Tollerton to the west.
- 2.3 The application follows a previous scheme which was refused in June 2020 and subsequently dismissed at appeal. Said previous scheme was for five bungalows fronting South Back Lane and running the whole length of the rectangular greenfield site. This latest application has reduced the number to four units and altered the layout, so the row of bungalows runs at 90 degrees

to the previous scheme and thus only develops the north-eastern part of the site.

- 2.4 The boundary to the Tollerton Conservation Area runs along South Back Lane, with the site just outside of the Conservation Area. The impact on the setting of the Conservation Area is one of the main determining issues, along with compliance with policy HG5 in terms of this sites suitability for windfall housing development, paying heed in particular to the impact on the character and appearance of South Back Lane and the village as a whole. Technical matters such as highway safety and drainage are also important material planning considerations in this case.

ZB23/01194/FUL

06/10/2023



Tollerton



NORTH YORKSHIRE COUNCIL  
Civic Centre, Stone Cross, Rotary Way,  
Northallerton DL6 2UU

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### 3.0 PRELIMINARY MATTERS

- 3.1 Access to the case file on Public Access can be found here: Online Documents

#### Planning History

- 3.2 9/00193/FUL - Full planning application for the creation of 5 dwellings - Withdrawn

- 3.3 20/00492/FUL - Revised full planning application for the creation of 5 no. bunglows - Refused 19.06.2020 for the following reasons:

1. The proposed development fails to reflect the existing built form and character of the village as required by Local Development Framework Policies CP1, CP2, CP4, DP9 and the Council's Interim Planning Guidance (2015)
2. The proposal fails to enhance the character of the countryside and is harmful to the setting of the Tollerton Conservation Area contrary to Local Development Framework CP16, DP28 and DP30 and chapter 16 of the NPPF.
3. The proposed design and type of properties would not be in character with the local area and its setting contrary to Local Development Framework Policy CP17, DP10 and DP32.
4. South Back Lane which leads to the site is by reason of its insufficient width, poor alignment and substandard visibility at the junction with Newton Road and is unsuitable to cater for the traffic which would be likely to be generated by this proposal contrary to Local Development Framework Policies CP1, CP2 and DP4.
5. The proposal fails to provide sufficient information regarding foul and surface water drainage systems and in the absence of information to the contrary it is considered that the development may exceed the capacity of the existing infrastructure and cause pollution and flooding to the detriment of the existing community and contrary to Local Development Framework Policies CP1 and DP6.

- 3.4 This appeal was then subsequently dismissed at appeal. However reasons 4 and 5 were not included in the Inspectors appeal dismissal.

## **4.0 SITE AND SURROUNDINGS**

- 4.1 The site is a rectangular parcel of greenfield land measuring approximately 4250sqm in area. It's currently bound on three sides by a dense hedgerow and owing to it sitting slightly higher than the adjacent South Back Lane, views across the site are limited. A gap in the hedgerow at the south western corner where the field access is allows glimpses across the field to the backdrop of Church Close, a C20 residential development which extends the whole length of the south eastern boundary of the site. To the north east of the site there are four recently completed two storey dwellings which back on to the rear gardens of Sycamore House and Abiah Newton, two larger detached units which are part of a cul-de-sac located to the north east of the site and abut the boundary in this direction. There are four sycamore trees within the garden of Abiah Newton which sit just outside of the site and that are protected by Tree Preservation Orders.
- 4.2 The boundary of the Tollerton Conservation Area runs along South Back Lane, with the village to the west within the boundary. Opposite South Back Lane the character and appearance of the various dwellings that front the road differs greatly. There are examples of small bungalows as well as larger brick-built dwellings of a more rural character. There are partial views of the roofscape of the rear of Main Street possible through the gaps in the buildings as one travels along South Back Lane, but these are on the most part very limited. The main example of such a view is through the Manor Farm plot, which is a detached dwelling that sits within the centre of the strip of land between South Back Lane and Main Street and unlike the other dwellings in this area does not have any back fill development reducing intervisibility from South Back Lane.

## **5.0 DESCRIPTION OF PROPOSAL**

- 5.1 This application is proposing the construction of four bungalows on the site. This would be in a linear layout on a north west-south east axis. All units would be served by a single access point from South Back Lane, with private parking provision provided to the side of each dwelling.
- 5.2 There are three different house types proposed: A, B and C. House type A (2 bed) has a hipped roof design with an adjoining garage on the side elevation. It measures approximately 132sqm in GIA (excluding the garage), with an eave's height of approximately 2.7m This will be the north western-most unit. House type B (3 bed) has a dual-pitch roof design with a gable end element projecting from the rear. This also has an adjoining garage on the side elevation. House type B measures approximately 160sqm GIA (excluding the garage) with an eave's height of 2.7m. The two central units would be house type B. Finally, house type C (3 bed) effectively mirrors house type A with a hipped roof design but it is slightly larger, measuring 160sqm in area. The south eastern-most unit will be house type C. The overall housing mix is 1 x 2 bed (25%) and 3 x 3 bed (75%).

## **6.0 PLANNING POLICY AND GUIDANCE**

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

### Adopted Development Plan

6.2 The Adopted Development Plan for this site is the Hambleton Local Plan (adopted February 2022).

### Emerging Development Plan - Material Consideration

6.3 The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

### Guidance - Material Consideration

6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- Hambleton Housing SPD

## **7.0 CONSULTATION REPONSES**

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

### Consultees

7.2 Parish Council - Tollerton Parish Council wish to see this application refused for the following reasons:

- There has been too much development in Tollerton over the last four year (the figure of 60 is cited), which is over development and contrary to the wishes of residents outlined in a survey undertaken by the Parish Council.
- The location of the dwellings erodes the feel of the village by creating ribbon development along historic lanes.
- Highway safety concerns owing to "unconsidered parking" along the lanes and the additional traffic movements adversely impacting local residents who use the lane.
- The deterioration of the lane and debris, mud and erosion of the grass verges due to passing traffic, parking vehicles, and deliveries to properties is detrimental to the area. Further development will only exacerbate this issue.
- Harm to ecology.
- Impact on drainage infrastructure

- Loss of open aspect within the site.

7.3 Environmental Health - No objections.

7.4 Environmental Health (Contaminated Land) - No objection subject to condition covering the discovery of unexpected contamination during construction.

7.5 NYC Highways - South Back Lane is narrow with substandard alignment and the Local Highway Authority has previously recommended refusal of a similar planning application at this location. That application was refused for a number of reasons including highway safety and was subject to an appeal reference APP/G2713/W/20/3259999. The appeal was dismissed but the Inspector did consider the highway safety matters and concluded that "given the modest scale of the proposal and the limited quantum of vehicle movements attributable to the appeal proposal...I am not persuaded that South Back Lane or its junction with Newton Road is inherently unsuitable for the limited amount of traffic likely to be generated by the proposed development" and there was not sufficient reason to dismiss the appeal on highway safety grounds. Given this decision, it would not be appropriate for the Local Highway Authority to recommend refusal of this proposal. Consequently, no objection is raised subject to conditions ensuring the access is constructed to the required standards, parking and turning areas are in place prior to occupation, and finally a Construction Management Plan is submitted prior to commencement of the development.

7.6 Yorkshire Water - No objection subject to two conditions requiring separate drainage systems for foul and surface water and preventing piped discharge of surface water from the site until a satisfactory outfall has been agreed with the Local Planning Authority.

### Local Representations

7.7 22 local representations have been received of which 1 is neutral, 1 supports and 20 are objecting. A summary of the comments is provided below, however, please see website for full comments.

#### Neutral

- No comments relating to the principle of the development but raises concerns relating to highway safety.

#### Object

- There has been too much development in Tollerton recently.
- Highway safety concerns relating to increase in vehicle movements, lack of passing places on South Back Lane, inadequate visibility, lack of crossing places, damage to local roads,
- Inadequate drainage infrastructure.
- Bungalows are not required for the local community in Tollerton.
- Inaccurate plans omitting existing buildings in the locality.
- The adjacent protected trees are not mentioned in the application and these should be protected.

- Harm to ecology and protected species.
- Overdevelopment of the site.
- The dwellings are too close to existing neighbouring properties.
- Increased noise from traffic.
- Development of this site will increase flood risk in the surrounding area.
- Inaccurate detail in the application relating to nearby cycle routes and local bus services.
- Detrimental impact on the amenity of neighbours.

#### Supports

- The precedent has been set for development along South Back Lane.

## **8.0 ENVIRONMENT IMPACT ASSESSMENT (EIA)**

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

## **9.0 MAIN ISSUES**

- 9.1 The key considerations in the assessment of this application are:
- Principle of development
  - Impact on the setting of the Tollerton Conservation Area
  - Housing mix
  - Design
  - Impact on amenity
  - Highway safety
  - Drainage and flood risk
  - Ecology and biodiversity net gain

## **10.0 ASSESSMENT**

### Principle of Development

- 10.1 The site subject to this application is not allocated for housing development in the Local Plan. Therefore, it would be classed as windfall housing development which is governed by policy HG5 of the Hambleton Local Plan. Policy HG5 only supports such development when it concerns a site either within or adjacent to the built form of a "defined settlement". The first issue at hand is whether Tollerton is a "defined settlement" for the purposes of policy HG5, paying heed to policy S3 which sets out the Settlement Hierarchy. Tollerton is defined in said Settlement Hierarchy as a "secondary village", the third level in terms of sustainability. The applicant has provided a Travel Statement which outlines that the site is also within walking distance of several bus stops on the York to Thirsk bus route and is within 2.2km of the National Cycle Route. An objection has questioned the information relating to the bus frequency and whether this can be relied upon, as well as the actual distance to nearby cycling infrastructure. A check on the Traveline website shows that there is a frequent bus connecting Tollerton to Easingwold in around 15 minutes. Furthermore, the National Cycle Route no. 65 which runs

through Alne and up to Easingwold is indeed 2.25km to the west via Alne Road. As such, it is reasonable to say the village is well connected. Nevertheless, for the purposes of policy HG5, the requirement is for the site to be adjacent to/within an "adopted settlement" as set out in the Local Plan, which Tollerton is. Consequently, residential development could be supported here subject to the other tests set out in policy HG5.

10.2 The second matter to consider in respect of policy HG5 is whether the site in question is classed as within the built form of the settlement or adjacent to it, as the tests under policy HG5 differ depending on this. Policy S5 of the Local Plan defines the "built form" as "the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them." It excludes the following from being classed as part of the built form:

- "a. any individual building or group of dispersed buildings or ribbon developments which are clearly detached from the main part of the settlement;
- b. any ribbon development attached to the main part of the settlement where the buildings relate more to the surrounding countryside than to the main part of the settlement;
- c. gardens, paddocks, and other undeveloped land on the edge of the settlement where this land relates more to the surrounding countryside than to the main part of the settlement;
- d. agricultural buildings on the edge of the settlement; and
- e. outdoor sports and recreational spaces on the edge of the settlement."

10.3 Tollerton has quite an unusual layout. It has grown from the historic core of the buildings either side of Main Street and to the north of Alne Road, which is effectively the area the Conservation Area covers, but not in any particularly uniformed way. There is more modern residential development on the eastern side of the settlement, which comprises mainly C20 cul-de-sac's that have left pockets of open space, in particular either side of Church Close. Whilst these spaces relate fairly well to the built form of the village in that they are often surrounded on at least two sides (or three in the case of the site in question) by existing development, they still retain a rural character that means they couldn't be said to be completely within the built form of the village for the purpose of policy HG5. Consequently, the second part of policy HG5 which sets out the tests for windfall housing development "adjacent to the built form" is engaged. This reads as follows:

- "A proposal for housing development on a site adjacent to the built form of a defined village will be supported where the proposal demonstrates that:
- a. a sequential approach to site selection has been taken where it can be demonstrated that there is no suitable and viable previously developed land available within the built form of the village; and
  - b. it will provide a housing mix in terms of size, type and tenure, in accordance with the Council's Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA) or successor documents.

All proposals will individually or cumulatively;

- c. represent incremental growth of the village that is commensurate to its size, scale, role and function;
- d. not result in the loss of open space that is important to the historic form and layout of the village; and
- e. have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village."

- 10.4 The first requirement set out above requires a sequential approach to be taken to windfall housing development which prioritises sites within the built form of settlements and requires them to be developed first when possible. As set out above, Tollerton does have some undeveloped parcels of land, particularly around the eastern edge of the settlement, but these invariably would not be seen as within the built form and therefore suitable for "infill development". Consequently, officers are content that there are no suitable and viable previously developed land available within the built form of the village and therefore requirement (a) of policy HG5 is met.
- 10.5 Policy HG5(b) relates to housing mix and refers to the evidence bases relating to this matter that have fed into the Local Plan as well as the Housing Supplementary Planning Document (SPD). The overall housing mix will be assessed in depth in a subsequent section of this report but overall it is considered that the proposal of 1 x 2 bed and 3 x 3 bed bungalows is in line with the targets set out in the Housing SPD and would help to address an identified shortfall in the districts housing stock. As a result, the requirement of HG5(b) is met.
- 10.6 Part (c) of policy HG5 relates to the overall amount of development in a particular settlement to ensure that the amount of development is not of such a scale in its own right, or cumulatively, that it would be harmful to the character of the village or potentially overwhelm services and facilities. This is a concern raised in several of the objections, with residents considering that there has been too much development in Tollerton. In order to assess this issue fully, the Council's Monitoring Officer has provided a summary of figures from between 2015 and the present day in terms of how many dwellings have been built and the number that could be built with extant planning permissions. In total, since 2015, there have been 69 dwellings either built or with planning permission that could be implemented. Overall, there are now 452 dwellings (either built or not yet completed) in Tollerton. If these 4 units now proposed were taken into account, these figures would be 73 and 456 respectively. Prior to 2015, the total number of dwellings would have therefore been 383. This means that since 2015, should this application be granted, Tollerton would have grown by approximately 19% at an average of 2.375% per year, in terms of the number of dwellings. It is considered that this is an acceptable level of growth for a settlement that offers a reasonable amount in terms of local facilities, with a doctor's surgery (which has just received planning permission for an extension) and a pub, as well as good public

transport links to Easingwold (a Market Towns) and from there on to even larger settlements such as York. On this basis it is considered this development would not have a detrimental impact on the size and scale of the settlement or undermine its role as a secondary village and thus the requirements of policy HG5(c) are met.

- 10.7 In terms of point (d) of policy HG5, this relates to land within or adjacent to a settlement that are of historic importance and play a role in the overall historic layout of a village. On this occasion the site is not of any historic importance in terms of a designation or its role in the overall layout of the settlement and this is demonstrated through its exclusion from the Conservation Area. On this basis it is considered that this development would not harm the historic layout of the village and requirement (d) is met.
- 10.8 Finally, policy HG5(e) requires an assessment of the development on the countryside and subsequently the character and/or setting of the village. At this juncture it is important to note that this issue resulted in two of the reasons for refusal of the previous application and also the subsequent dismissal of the appeal, however, it is also important to note that there have been considerable alterations made from the previous scheme which included the complete removal of the hedgerow which runs along the western edge of the site and its replacement with a footpath. On that occasion the Inspector concluded that this "would be a significant jolt to, and indeed cause irreparable harm to, the site and wider area's prevailing character" and furthermore "The widening of the lane itself to create a greater carriageway width along with the creation of footpaths on both sides of the road would be harmful in itself but would add to the harm South Back Lane's pleasant, rural character that I have already identified. Thus, not only would the existing dense roadside hedge be lost as a consequence of the proposal, but the pleasant grass verges would be replaced by pavement. The result, an incongruously urban stretch of carriageway and paving at odds not only with the prevailing character of South Back Lane, but also incongruous in that it would be an isolated stretch of pavement where none exists nor, given the quiet nature of the lane, is it particularly needed."
- 10.9 It is considered that the retention of the vast majority of this hedgerow, except for the new access road, along with the removal of the footpath along South Back Lane from the proposal and thus the protection of the grass verge, means that the harm identified by the Inspector above has been reversed. The site now being restricted to the northern-most part of the field would mean that the majority of the frontage onto South Ings Lane would be unaffected, protecting the rural character that is considered to define the character of this part of the settlement. There would be an inescapable change to the character of the street scene where the access would be punched through the hedgerow but the change to the overall site layout means this would now be opposite a similar access which serves Manor Farm, as well as two semi-detached C20 bungalows, both of which signify the change in character of the street scene from an overtly rural character to one characterised more by residential development. Views of the bungalows would still be evident as one travels north east up South Back Lane, but these

would be limited to the roofscape which would be on the most part against the backdrop of existing residential development in any case. As such, whilst there would be a change in the setting of this part of the village to an extent, this would be minimal given this existing context and managed by the site layout and design of the units so this change will not be harmful.

10.10 All in all it is considered that the changes made to the scheme by way of layout, scale and the retention of existing landscape features have resulted in the harmful aspects of the previous proposal being rectified and the development now meets the requirements of policy HG5(e).

10.11 The above assessment demonstrates that this development complies with all requirements set out in policy HG5 for a windfall housing development and therefore the principle of this development is supported by the Local Plan.

#### Impact on the Setting of the Tollerton Conservation Area

10.12 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The National Planning Policy Framework requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset. Policy E5 of the Local Plan states that a development will only be supported when "those elements that have been identified as making a positive contribution to the special architectural or historic interest of a conservation area and its setting are preserved and, where appropriate, enhanced, having regard to settlement character assessments and conservation area appraisals.

10.13 As already set out, the Tollerton Conservation Area (TCA) effectively covers this historic core of the village which comprises the buildings either side of Main Street and to the north of Alne Road. Previously the Inspector for the appeal of the other application on the site set out the importance of the gap in built form in the centre of South Back Lane and the "pastoral setting" this open, rural aspect creates which contributes to the setting of the TCA. The Inspector also gave weight to the views across the site to the open countryside to the south and the intervisibility from the PROW to the south of the site and Main Street, across the southern part of the wider parcel of land, ultimately concluding that "Despite the limited scale of the single storey bungalows, they would intrude into, if not completely obscure these views, thereby causing further harm to the rural setting of Tollerton, and failing to preserve or enhance the character, appearance and setting of the CA."

10.14 Taking into account the characteristics that the Inspector gave weight to above, it is considered that the reduction in the size of the site and the retention of the open aspect and intervisibility from the TCA across the southern-most part of the field towards the open countryside to the south east has addressed the previous aspects of the development that were considered to be harmful to the overall setting of the TCA. The "pastoral" character would

be maintained, especially as one travels along the PROW towards South Back Lane, by moving the development boundary further north where it would be seen against the backdrop of the existing modern residential development in that direction and maintaining the open nature of the southern part of the field.

- 10.15 On this basis it is considered that the development would adequately protect the important aspects of the setting of the Tollerton Conservation Area and thus would not lead to harm to the overall significance of the heritage asset. On this basis, the requirements of policy E5 and the NPPF in this regard are met.

### Housing Mix

- 10.16 Policy HG2 of the Local Plan seeks to ensure that housing development provides the right type of dwelling in order to meet the needs of the district as a whole. It states (as material) "a proposal for housing development will be supported where...a range of house types and sizes is provided, that reflects and responds to the existing and future needs of the district's households as identified in the Strategic Housing Market Assessment (SHMA) or successor documents, having had regard to evidence of local housing need, market conditions and the ability of the site to accommodate a mix of housing". The Housing SPD is a material consideration and goes in to greater detail on the number of dwellings required depending on the number of bedrooms provided and sets out the following target mix:

- 1 bed - 5-10%
- 2 bed - 40-45%
- 3 bed - 40-45%
- 4 bed - 0-10%

- 10.17 The Housing SPD at paragraphs 3.7 and 3.8 that "Hambleton has very low proportion of bungalows within its existing stock", in particular two-bed bungalows, and therefore "To assist older people to downsize and improve the offer of smaller accommodation the Council will seek bungalow provision where there is an evidenced need".

- 10.18 Overall the proposed housing mix provides a greater amount of 3 bed units than is the target mix. That said, it is important to note that the targets are guidance only and on smaller schemes such as this it wouldn't be mathematically possible to completely meet these targets. Ultimately the development would deliver a scheme of four bungalows, which would help to address the short fall in the districts housing stock, with one of these being a 2-bed unit which is the most desirable.

- 10.19 A number of the objections received by members of the public refer to a perceived imbalance in the number of bungalows that have been provided in Tollerton over recent years. It is important to note that generally housing targets are considered in terms of the district as a whole and not individual settlements and as already set out, there is a very low proportion of bungalows in the district. Nevertheless, in order to ensure this issue is given

appropriate consideration, further figures have been provided by the Councils Monitoring Officer. These show that of the 73 units granted since 2015 (including the 4 proposed in this case), 25 of them have been bungalows - i.e. roughly a third. This demonstrates that there has not been a disproportionate number of bungalows provided in the settlement relative to other house types.

10.20 All in all it is considered that the overall housing mix provided is acceptable and meets the aims of policy HG2 and the Housing SPD.

### Design

10.21 Policy E1 of the Local Plan relates to design and requires all development to be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place. It goes on to list a number of principles that will help to achieve this overarching aim including responding positively to context and drawing inspiration from the key characteristics of surroundings, including natural, historic, and built environment, to help create distinctive, high quality and well-designed places.

10.22 Away from the immediate core of the village around the green and Main Street, the design, scale, appearance, and materials of properties becomes more varied. There are examples of small semi-detached bungalows, late C20 two-storey dwellings to the east, and more modern two-storey dwellings recently completed to the north. The design of the proposed dwellings has not changed a great deal since the previous iteration, although two of the units now have a hipped roof design. The dwellings are typical designs that would use a similar palette of materials to the aforementioned recently finished development to the north. In this respect there would be some consistency. Officers previously took the view that the design was overtly suburban and thus not in keeping with the character and appearance of the surrounding area, but this view was dismissed by the Inspector who cited the ununiformed nature of the locality as a reason for the development not representing a harmful stray from the surrounding character. In terms of the overall layout of the site, each unit is within a fairly sizeable plot which are balanced throughout the site. There will be ample amenity space and the site does not appear cramped or over developed. As such, the scale and amount development is appropriate and complies with the requirements of policy E1.

10.23 Another aspect of design is space standards and ensuring the dwellings comply with the guidance set out in the Nationally Described Space Standards (NDSS). This is also a requirement of policy HG2 of the Local Plan. House type A has a GIA of approximately 132m<sup>2</sup>, over the NDSS requirement of 70m<sup>2</sup> for this house size. House type B has a GIA of approximately 160m<sup>2</sup>, over the NDSS requirement of 95m<sup>2</sup> for this house size. Finally, house type C has a GIA of approximately 160m<sup>2</sup>, over the NDSS requirement of 95m<sup>2</sup>. As such, the requirements of the NDSS in terms of house size have been met.

10.24 Nothing has changed with the minor re-design of the bungalows that leads officers to a different view than that held by the Inspector and therefore it is considered that the proposal is acceptable on design grounds and complies with policy E1.

#### Impact on Amenity

10.25 Policy E2 of the Local Plan requires all development to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use. This relates to matters such as mutual privacy, adequate daylight provision, and protection from noise and disturbance.

10.26 The proposed development is considered to meet the above requirements. There is adequate separation distance between the proposed bungalows and the existing surrounding dwellings to prevent any loss of privacy or daylight provision. The nearest dwelling to the development is no. 26 Church Close which sits to the south east of where the end bungalow would be sited. The occupier of this dwelling has objected, citing concerns with the proximity of their dwelling to the development and the fact their extension is not shown on the plans submitted. Whilst these concerns are noted, the end unit on the site would sit side on with no. 26 in a similar way to how neighbouring dwellings typically do. The orientation of the two in relation to one another would ensure no overlooking or loss of privacy and there would be a separation distance of approximately 9m which is considered ample for a side-to-side relationship.

10.27 Concerns have been raised regarding additional traffic and the noise that will be associated with this. By its very nature vehicular traffic is very transient and given the small scale of this development, vehicle movements to and from the site will be very limited. As a result, this will not harm the amenity of nearby residents.

10.28 The development gives way to no concerns in terms of the impact on amenity and is considered to comply with policy E2 of the Local Plan.

#### Highway Safety

10.29 The NPPF at paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Under the previous application, South Back Lane was judged as being of an unsuitable width to accommodate the additional traffic movements from the development and coupled with poor visibility at the junction with Newton Road to the north east, it was deemed that the development would have an unacceptable impact on highway safety. This position was backed up by the Local Highway Authority. This reason for refusal was then overturned by the Inspector who stated "given the modest scale of the proposal and the limited quantum of vehicle movements attributable to the appeal proposal and taking into account recent

developments on South Back Lane, I am not persuaded that South Back Lane or its junction with Newton Road is inherently unsuitable for the limited amount of traffic likely to be generated by the proposed development."

- 10.30 The vast majority of the objections received to this application express concerns regarding highway safety. This includes reasons such as South Back Lane being too narrow to allow two cars to pass one another, a lack of passing places to overcome this, and the development bringing additional vehicle movement that would exacerbate these issues and increase risk to pedestrians. The Local Highway Authority have removed their objection given the previous Inspector's assessment.
- 10.31 It is accepted that South Back Lane is narrow and does not allow passing places, however, the test is whether the development would have an "unacceptable" impact on highway safety. Given the scheme is for four small dwellings which are highly unlikely to have more than two vehicles per unit, the vehicle movements to and from the site, and thus the additional traffic on South Back Lane, will only increase by a very small amount that will not in the grand scheme of things have an impact on highway safety.
- 10.32 Many of the objections also refer to issues with the physical impact on the condition of the road itself and surrounding grass verges. Whilst these are noted, the limited increase in vehicles using the road as a result of the development means that in reality the additional impact will be negligible. It is also not the applicant's duty to address existing problems with the condition of the road off-site and it is under the remit of the Local Highway Authority to ensure adopted roads are in a well-kept condition. On this basis, this is not a reason for refusal of this application.

#### Drainage and Flood Risk

- 10.33 Policies RM1, RM2 and RM3 relate to drainage and flood risk and dictate that development should avoid areas at high risk of flooding, should be safe from flooding for the lifetime of the development and not increase the risk of flooding elsewhere. Furthermore, in terms of drainage, the use of SUDs is encouraged unless site conditions means they are not viable and policy RM1 requires foul and surface water flows should be separated with foul water being disposed to a public sewer and the design of the waste disposal system will be safe over the lifetime of the development.
- 10.34 As set out in paragraph 3.3 above, drainage was one of the reasons for refusal of the previous application owing to a lack of information relating to how the site would be drained. It is understood that through the course of the appeal, a Drainage Strategy was submitted which was ultimately deemed acceptable and as such in their Statement of Case, the Council withdrew this as a reason for refusal as it could be dealt with through imposition of a condition. The Inspector shared this view and therefore did not address the matter in any great detail. In contrast to the previous application, a Drainage Strategy has been submitted on this occasion. This sets out that the site is wholly within flood zone 1, which is classified as having the lowest risk of flooding.

Furthermore, it is stated that soakaways would be used, with each unit served by its own private system. The location of these would be determined under building regulations. This is the most sustainable method of surface water management and therefore complies with the aforementioned policies.

10.35 Foul water is to be directed to an existing sewer on South Back Lane which ultimately discharges into a sewer to the north on Newton Road. Several of the public objections refer to a failure in the existing drainage infrastructure in recent times which it is felt will be exacerbated by this development. Whilst these concerns are noted, the applicant cannot be expected to rectify operational issues which are off-site and under the remit of third parties. Yorkshire Water have been consulted on this proposed development and raised no concerns and thus the proposed foul water management scheme is considered acceptable.

10.36 Based on the above it is considered that the proposed drainage scheme would be acceptable to ensure that surface and foul water is managed in a way that is adequate, will be safe for the lifetime of the development, and does not increase the risk of flooding elsewhere. On that basis it complies with policies RM1, RM2 and RM3.

#### Ecology and Biodiversity Net Gain

10.37 Policy E3 of the Local Plan now requires all development to demonstrate the deliverability of a net gain in biodiversity. The impact of a development on protected species is also a material planning consideration which will be assessed below.

10.38 The applicant has submitted a BNG Report alongside the Landscape Plan to demonstrate how said landscaping would deliver a net gain in habitat units on site. The Landscape Plan shows that tree planting alongside a hedgerow would be provided along the south western boundary of the site, along with tree planting in the northern corners of the site. Grassland with a wildflower seed mix will be planted along the front and rear of the dwellings, along with ornamental shrub planting in the front gardens of the dwellings. All in all this would provide a gain of 8.09% in habitat units and 66.21% in hedgerow units. On this basis, subject to a condition requiring the Landscape Plan to be implemented, it is considered the requirements of policy E3 are met initially. A condition requiring a full Management Plan to set out how the net gain will be secured over the full 30 year period is recommended (see condition 14 below) to ensure the requirements of policy E3 will be met in full.

10.39 A number of the objections refer to concerns with the potential impact on ecology resulting from the development. An Ecological Impact Assessment has been submitted with this application. This concludes there may be some impact on protected species at site level, but these would not be significant and with simple mitigation measures such as limiting working times and restricting external lighting the impact would be managed to an acceptable level.

10.40 Specific concern has been raised in relation to the protected trees to the north east of the site. Whilst this is noted, these trees are to be retained and owing to the distance between the trees and the dwellings, there is very limited risk during construction. On this basis, the impact on the trees would be acceptable.

10.41 Overall it is considered the development will have an acceptable impact on ecology.

## **11.0 PLANNING BALANCE AND CONCLUSION**

11.1 The proposed development meets the requirements of policy HG5 and thus can be supported in principle as a windfall housing development. Owing to the re-design of the layout and the reduction in the scale of the development, the proposal would maintain the existing character and appearance of the surrounding village, South Back Lane in particular, and the setting of the Tollerton Conservation Area. The development would provide an acceptable housing mix and help to address the shortfall in bungalows in the district. The matters relating to highway safety and drainage have been suitably addressed and there are no other technical issues with the development. On this basis, it is recommended that this application be approved.

## **12.0 RECOMMENDATION**

12.1 That Permission be **GRANTED** subject to the conditions set out below:

### Condition 1

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

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

### Condition 2

The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 2943-1-002 G, 2943-1-004 B, 2943-1-003 B, 2943-1-006 A, 2943-1-005 C, 2943-1-011 and 2943-1-010 A; received by the Local Planning Authority on 05.09.2023 and 06.10.2023; unless otherwise approved in writing by the Local Planning Authority.

Reason: In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.

### Condition 3

No part of the development shall be used after the end of the first planting and seeding seasons following the first occupation or completion of the building(s) whichever is the sooner, unless the landscaping scheme shown on the landscaping plan numbered MR22-113/101 Revision B received by North Yorkshire Council on 02.10.2023; has been carried out. Any trees or plants which within a period of 5 years of planting die, are removed or become seriously damaged or diseased, shall be replaced with others of similar size and species.

Reason: In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties.

### Condition 4

Prior to development commencing details of the existing ground and floor levels of site and neighbouring buildings and the proposed ground and finished floor levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The levels shall relate to an identified fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

Reason: To ensure the development sits comfortably within the street scene and will not give way to overshadowing or loss of privacy for neighbouring properties.

### Condition 5

No above ground construction work shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development have been submitted in writing to the Local Planning Authority for approval and samples have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.

Reason: In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.

#### Condition 6

The development must not be brought into use until the access to the site has been set out and constructed in accordance with the following requirements:

- The access to the site must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50.
- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the highway and must not be able to swing over the existing or proposed highway.
- The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing public highway.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

#### Condition 7

There must be no access or egress by any vehicles between the highway and the application site until splays are provided giving clear visibility of 25 metres measured along both channel lines of the major road (South Back Lane) from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

#### Condition 8

No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the approved drawing reference Proposed Site Layout drawing number 2943-1-002 G. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

#### Condition 9

No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited to, arrangements for the following in respect of each phase of the works:

- Details of any temporary construction access to the site including measures for removal following completion of construction works;
- Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- The parking of contractors' vehicles;
- Areas for storage of plant and materials used in constructing the development clear of the highway;
- Details of site working hours;
- Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity.

#### Condition 10

The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason: In the interest of satisfactory and sustainable drainage.

#### Condition 11

No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

#### Condition 12

In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Condition 13

The mitigation measures outlined in section 6 of the Ecological Impact Assessment prepared by MAB Environment and Ecology dated March 2023 shall be implemented in full, including the following:

- The removal of the hedgerow section will be scheduled to avoid the bird breeding season, which runs from March to the end of August. If this is not possible, then a check for active nests should be carried out immediately before any works to the affected areas begin. If active nests are found, works will be delayed until all chicks have fully fledged.
- Works should be restricted to daylight working. The hedgerows and the mature trees along the northern perimeter should not be illuminated post-development to maintain the ecological functionality of the features for potential foraging bats.

Reason: To ensure no harm arises to protected species.

#### Condition 14

Prior to the development hereby approved coming into use, a Management Plan setting out how the landscaping will be managed moving forward, including periodical review and monitoring, in order to ensure the specified net gain in biodiversity will be achieved for the 30 year period, shall be submitted to the Local Planning Authority. This Management Plan must then be implemented in full.

Reason: To ensure the requirements of policy E3 are met in full.

## Condition 15

No above ground construction work shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development have been submitted in writing to the Local Planning Authority for approval and samples have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.

Reason: In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.

Target Determination Date: 20 October 2023

Case Officer: Mr Nathan Puckering  
[nathan.puckering@northyorks.gov.uk](mailto:nathan.puckering@northyorks.gov.uk)

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## North Yorkshire Council

### Community Development Services

#### Thirsk and Malton Constituency Area Planning Committee

19 OCTOBER 2023

**23/00196/MOUT - OUTLINE APPLICATION FOR THE ERECTION OF 19 NO. DWELLINGS WITH ASSOCIATED HIGHWAYS AND DRAINAGE WORKS - ACCESS, SCALE AND LAYOUT TO BE CONSIDERED (SITE AREA 0.89 HA) ON LAND AT KELD HEAD ROAD, KIRKBYMOORSIDE ON BEHALF OF MRS E HUMBLE**

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

#### 1.0 Purpose of the Report

- 1.1 To determine an outline planning application for the erection of 19 no. dwellings with associated highways and drainage works - access, scale and layout to be considered (site area 0.89 ha) on land at Keld Head Road, Kirkbymoorside.
- 1.2 The application is reported to the Area Planning Committee for determination at the request of the Planning Manager.

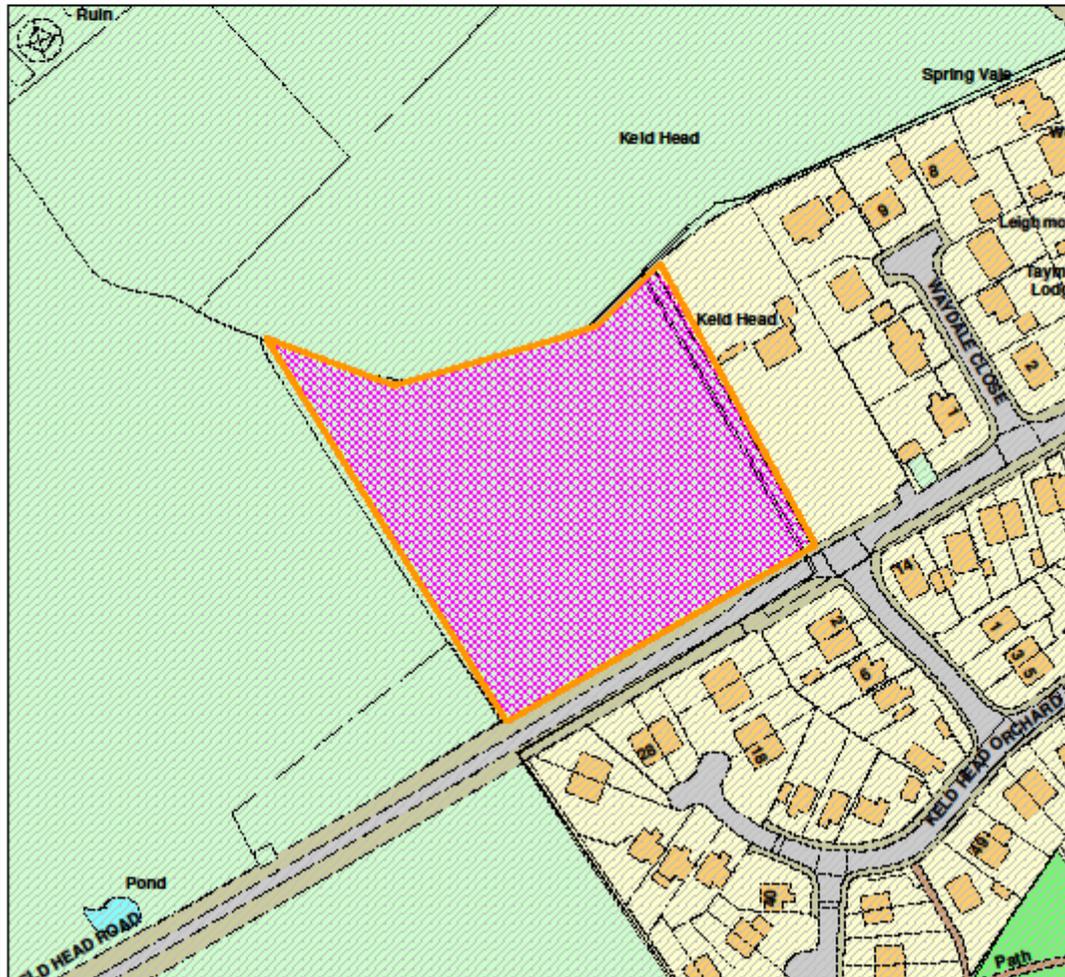
#### 2.0 EXECUTIVE SUMMARY

**RECOMMENDATION:** That planning permission be **GRANTED** subject to conditions listed below and completion of a S106 agreement with terms as detailed in Table 1.

- 2.1. The proposed development comprises the erection of 19 no. dwellings with associated highways and drainage works. The application is made in outline with access, scale and layout to be considered.
- 2.2. The application site amounts to approximately 0.89 hectares and is land on the north west side of Kirkbymoorside to the west of Gillamoor Road. The site is within the development limits of Kirkbymoorside and is allocated for housing within the Development Plan.
- 2.3. The general principle of housing development on this site is established through the housing allocation (Policy SD8) in the Ryedale Plan- Local Plan Sites Document (2019).
- 2.4. The main issues through the course of the application have been the layout, scale, residential amenity, highway safety and drainage. It is considered that these matters have been adequately addressed.

23/00196/MOUT

Not Set



Scale: 1:1,500

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	10/10/2023
MSA Number	Not Set

### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:-  
<https://planningregister.ryedale.gov.uk/caonline-applications/simpleSearchResults.do?action=firstPage>
- 3.2. The site is allocated for residential development under Policies SD2 and SD8 within the adopted Ryedale Sites Local Plan document. The Sites Document was formally adopted by the Council in June 2019 and it forms part of the Council's adopted statutory Development Plan.
- 3.3. The following relevant planning history has been identified for the application site which pre-dates its allocation:

3/72/2D/OA Residential development (site area 0.89H) at O.S Field 518A. Refused 06.12.90.

3/72/2C/OA Residential development (site area 0.0869HA) at O.S Field 518A. Refused 06.12.89.

3/72/2B/PA Outline application for the construction of 14 bungalows. Refused 04.02.80.

### **4.0 Site and Surroundings**

- 4.1. The application site amounts to approximately 0.89 hectares and is land on the north west side of Kirkbymoorside to the west of Gillamoor Road. The site is within the development limits of Kirkbymoorside and is allocated for housing within the Development Plan. The Local Plan Sites Document (LPSD) indicates that the site could provide a housing yield of 18 dwellings (Policy SD8). The site has a maximum width of approximately 100 metres and a maximum depth of approximately 120 metres.
- 4.2. The site is Grade 3 agricultural land (single field) used for grazing of livestock enclosed by mixed native hedges, timber post and rail and post and wires fences and deciduous trees. Access (field gate) is gained via Keld Head Road which leads to Keld Head Farm to the west. The road narrows to a single car width track where it passes the southern boundary of the application site. The site is elevated in relation to Gillamoor Road and there is a steady incline up to the site along Keld Head Road. The levels within the site fall away from the north west corner to the south east corner with a level change of approximately 9 metres. The site is wholly within Flood Zone 1 and there are no watercourses within or immediately adjacent to the site.
- 4.3. In terms of neighbouring land use the site is on the edge of a residential area with agricultural land to the north, west and south west. The housing estate comprising Keld Head Orchard (constructed mid to late 1980's) is opposite the site to the south and the detached dormer bungalow 'Keld Head' is to the east beyond which is Waydale Close cul de sac.
- 4.4. The southern and eastern boundaries are field hedgerows and there are a number of mature trees along the western and part of the southern and northern boundaries. The land falls within an Area of High Landscape Value.

- 4.5. There are no public rights of way on or across the site. Public footpath number 25.54/29/1 runs from the housing estate opposite the site and along Ryedale Crescent and West Pasture before crossing fields in a westerly direction 360 metres south of the site.

## **5.0 Description of Proposal**

- 5.1. Outline planning permission is sought to establish the principle of development for 19 dwellings at the site with the means of access, scale and layout to be considered. The appearance and landscaping are to be reserved for future determination.
- 5.2. The proposed 19 dwellings are to be two storey in a mix of detached (11no.) and semi-detached (8no.), with 2, 3 and 4 bedrooms. Overall the density of the site equates to 21.4 dwellings per hectare.
- 5.3. There would be 13 dwellings provided as open market housing (6no. 3 bed and 7no. 4 bed) and 6 dwellings provided as affordable housing (4no. 2 bed and 2no. 3 bed) with a small financial commuted sum equating to 0.65 of a unit. The affordable housing would be semi-detached dwellings (plots 1-4 and 16&17) with the 4no. 2bed 4 person units each having a Gross Internal Floor Area (GIFA) of 79m<sup>2</sup> and the 2no. 3 bed 5 person units having a GIFA of 93m<sup>2</sup> to meet Nationally Described Space Standard (NDSS).
- 5.4. It is proposed that the affordable housing tenure comprises 4 no. units for rent and 2 no. low cost home ownership.
- 5.5. All dwellings are to be accessed via an opening in the southern boundary and along the proposed adoptable estate road (cul-de-sac) with no frontage access to individual plots along Keld Head Road. The proposed layout shows that the access road within the site would extend northward into the site between plots 16-19 and 1-4 and then would curve westward to the front of plots 5-9. There would be a turning head between plots 10, 11 and 15 beyond which the road would become a shared surface serving plots 12-14.
- 5.6. All dwellings would have front and rear gardens and in-curtilage parking with each dwelling provided with an electric vehicle (EV) charging point. The two and three bed dwellings would each have two parking spaces (including garage for plots 18 & 19) and the four beds would have three spaces with the third in the form of a single garage. The size of the single garages are in excess of the recommended minimum in order to allow for secure cycle parking inside. Overall there would be 46 parking spaces provided across the site.
- 5.7. The proposed site layout site includes four separate areas of Public Open Space (POS) amounting to 834m<sup>2</sup> (9.3% of the site area). The largest area of POS is the 'buffer zone' along the southern boundary of the site to the west of the site access. This area of POS would include a footpath link from the site entrance to Plots 11-15 on the western side of the site. In the south east corner a rectangular area of POS would be created above the surface water attenuation tank. The other small areas of POS are located between Plots 10 & 11 in the north west corner adjacent to the turning head and also a small frontage area on the corner of the road to the south of plot 5.
- 5.8. With regard to scale and height the external dimensions of the dwellings are proposed as follows:-
- Widths range from 5.5 metres (2 bed semi) to 9.68 metres (4 bed detached)
  - Depths range from 8.55 metres (2/3 bed semi) to 10.77 metres (4 bed detached)

- Eaves heights range from 4.72 metres to 4.95 metres
- Ridge heights range from 7.37 metres to 8.14 metres

- 5.9. The indicative elevations show that the dwellings are to be constructed from a mix of coursed random rubble limestone and red or orange multi stock facing brick with either natural clay pantiles or natural slate coverings to the pitched roofs. The windows are indicated as being painted timber framed vertical sliding sash or side hung casements with stone heads and sub-cills. Doors would be painted timber and rainwater goods black uPVC.
- 5.10. Boundaries between dwellings at the rear vary between high timber boarded fence and low post and rail. Dwellings adjacent to public space have high boarded fence augmented by planting to the public side. The proposed development provides for the retention of existing landscape features on the site's boundaries and the augmentation of existing hedges by additional infill planting with native species including new trees along the southern, roadside boundary. A section of hedgerow is to be removed to form the improved access roadway.
- 5.11. The proposed surface water system comprises on-site storage and a 3.5l/s restricted flow to the public combined sewer. It is proposed that foul water will discharge to the 150 mm diameter public combined water sewer located within Keld Head Road.
- 5.12. The application is also accompanied by a Planning Statement; Flood Risk Assessment and Drainage Strategy; Archaeological Assessment & Geophysical Survey; Phase 1 Contamination Report; Topographical Survey; Ecological Assessment; Arboricultural Assessment; Landscape and Visual Impact Assessment; a Minerals Safeguarding Assessment and Draft Heads of Terms for a Section 106 agreement.

## **6.0 Planning Policy and Guidance**

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

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

Ryedale Plan- Local Plan Strategy (2013)

Policy SP1 General Location of Development and Settlement Hierarchy

Policy SP2 Delivery and Distribution of New Housing

Policy SP3 Affordable Housing

Policy SP4 Type and Mix of New Housing

Policy SP11 Community Facilities and Services

Policy SP12 Heritage

Policy SP13 Landscapes

Policy SP14 Biodiversity

Policy SP15 Green Infrastructure Networks

Policy SP16 Design

Policy SP17 Managing Air Quality, Land and Water Resources

Policy SP18 Renewable and Low Carbon Energy

Policy SP19 Presumption in Favour of Sustainable Development

Policy SP20 Generic Development Management Issues

Policy SP22 Planning Obligations, Developer Contributions and the Community Infrastructure Levy

Ryedale Plan- Local Plan Sites Document (2019)

Policy SD2 (Residential Land Allocations) states that the site (0.85ha) has an indicative yield of 18 units although the policy acknowledges “the precise number of residential units to be provided on each site will be determined at the planning application stage”.

Policy SD8 (Housing Allocation) sets out the Development Principles applicable to the site. These principles are drawn from information provided as part of the local plan process. It states that detailed proposals for the development of the site shall include:

- An indicative yield of 18 dwellings
- access from Keld Head Road
- retention of mature boundary trees and landscaping scheme to enhance boundary landscaping
- scale of buildings to be limited in height to two storeys
- sustainable drainage system to be integrated into design
- Capability for electric vehicle charging for each property with a dedicated car parking space within its curtilage
- Lighting scheme to minimise glare, reduce energy usage, and protect amenity
- As a Safeguarded Site, the feasibility and viability of the extraction/utilisation of the minerals resource will be demonstrated.

Minerals and Waste Joint Plan (MWJP) (2022)

The Minerals and Waste Joint Plan was adopted in February 2022 by North Yorkshire County Council (now North Yorkshire Council), the City of York Council and the North York Moors National Park Authority. Information about the proposed safeguarding policies and how it is proposed to use the safeguarding areas, including the consideration of applications in mineral consultation areas, can be found in Chapter 8 of the Minerals and Waste Joint Plan (MWJP).

The site is within a Minerals Safeguarding Area and the following policies contained within the MWJP are relevant:

Policy S01: Safeguarded Surface Mineral Resources

Policy S02: Developments proposed within Safeguarded Surface Mineral Resource areas

Emerging Development Plan – Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

## Guidance - Material Considerations

6.4. Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- National Design Guide 2021

## **7.0 Consultation Responses**

7.1. The following consultation responses have been received and have been summarised below. Full comments are available to view on the Council's website.

### Initial consultation

- 7.2. **NYC Natural Services** the applicant will need to demonstrate how they would deliver net gains for biodiversity. Advice in relation to bats and great crested newts noting that the applicant will need to make an application to the District Level Licensing Scheme administered by Natural England. An Ecological Management Plan to be submitted (or conditioned) at reserved matters stage.
- 7.3. **NYC Minerals and Waste Planning** No comments- there are no active quarry sites or waste facilities within 500 metres of this land at Keld Head Road, Keld Head Road, Kirkbymoorside and no sites have been proposed for allocation for minerals or waste activities in the Minerals or Waste Joint Plan within that 500m zone. The site is within a Minerals Safeguarding Area but falls under the exemption criteria (allocated for development in Local Plan).
- 7.4. **Archaeology Section** No objection- the geophysical survey was largely negative and archaeological potential low and further archaeological work is likely to be unproductive.
- 7.5. **Yorkshire Water Land Use Planning** further consideration of means or surface water management required but can be addressed via conditions in relation to foul and surface water drainage.
- 7.6. **Kirkbymoorside Town Council** No objections but the Town Council *"reiterate its concerns regarding the number of houses being built in Kirkbymoorside with no accompanying development of the local infrastructure to support the increased population"*.
- 7.7. **Natural England** No objection
- 7.8. **Environmental Health** Recommend standard conditions in relation to contaminated land and a condition to limit the hours of construction to Monday to Friday 8am to 6pm Saturday 8am to 1pm and no construction works to take place on Sundays or Bank Holidays.

- 7.9. **Designing Out Crime Officer (DOCO)** Comments- advice on creating a safe and secure environment- layout, boundary treatments, access control, lighting and natural surveillance of public open space.
- 7.10. **Highways North Yorkshire** no objections- the site should be developed with an adoptable estate road layout. Parking provision must be in line with NYC guidance on minimum parking standards for new residential developments. A positive outfall for surface water drainage from the new estate road is established at the earliest stage. Off-site works to widen the carriageway to match the existing carriageway width covering the site frontage will be required and should be secured via a Section 278 agreement - the agreement should take into account the site entrance and footway provision up to Keld Head Orchard and additional street lighting and road drainage along Keld Head Road. Conditions recommended in respect of engineering drawings for roads and sewers and programme for delivery; construction of roads and footways; off-site highway mitigation measures (site entrance and footway and tactile crossing); Stage 2 Road Safety Audit; details of access, parking and turning; and Construction Management Plan.
- 7.11. **Housing Services** supports the application and policy compliant on-site affordable housing contribution with commuted sum but requests that the 2no. 3 bed 5 person units be of Intermediate tenure with the 4no. 2bed 4 person units to be social/affordable rent.
- 7.12. **Vale of Pickering Internal Drainage Board** No response received
- 7.13. **Sustainable Places Team (Environment-Agency)** No response received
- 7.14. **Public Rights Of Way** No response received
- 7.15. **Flood Risk** No response received
- 7.16. **Tree & Landscape Officer** No response received
- Re-consultation (Revised site plans and further information in relation to drainage, highway works and boundary treatments)*
- 7.17. **NYC Natural Services** previous comments still apply
- 7.18. **Archaeology Section** no additional observations
- 7.19. **NYC Minerals and Waste Planning** No comments- there are no active quarry sites or waste facilities within 500 metres of this land at Keld Head Road, Keld Head Road, Kirkbymoorside and no sites have been proposed for allocation for minerals or waste activities in the Minerals or Waste Joint Plan within that 500m zone. The site is within a Minerals Safeguarding Area but falls under the exemption criteria (allocated for development in Local Plan).
- 7.20. **Yorkshire Water Land Use Planning** No objection – recommend conditions

- 7.21. **Kirkbymoorside Town Council** no concerns/observations
- 7.22. **Natural England** No further response received
- 7.23. **Environmental Health** No further response received
- 7.24. **Designing Out Crime Officer (DOCO)** noted the response made by the architect in regard to some of the comments made in my original report and it is pleasing to see that they have sought to address a number of the issues raised and have indicated that further matters will be addressed in any Reserved Matters application. I have no other comments to make at this time.
- 7.25. **Highways North Yorkshire** no objections- previous observations and recommendations apply and updated schedule of conditions recommended in respect of engineering drawings for roads and sewers and programme for delivery; construction of roads and footways; visibility splays; off-site highway mitigation measures (carriageway widening, additional drainage, footway and tactile crossing, street lighting); Stage 2 Road Safety Audit; details of access, parking and turning; and Construction Management Plan.
- 7.26. **Housing Services** No further response received
- 7.27. **Vale of Pickering Internal Drainage Board** No response received
- 7.28. **Sustainable Places Team (Environment-Agency)** No response received
- 7.29. **Public Rights Of Way** No response received
- 7.30. **Flood Risk** No response received
- 7.31. **Tree & Landscape Officer** No objections. The Tree & Landscape Officer recommends that, following assessment, a TPO be raised to cover the trees. The Tree & Landscape Officer states that these trees can be safeguarded during development though the threat to the trees, as a result of ownership changes and development, are such that a TPO is justified. The Tree & Landscape Officer also recommends conditions to secure root protection areas and a landscaping scheme.

#### Local Representations

- 7.32. The LPA has received four representations from local residents. A summary of the comments is provided below, however, please see the Council's website for full comments.
- The site is on higher ground in relation to the adjacent property ('Keld Head') and surface water drainage issues could be exacerbated by hard surfaces
  - The site is at a higher level in relation to the adjacent property ('Keld Head') and the new dwellings might overlook and shadow the house and garden

- The mature trees and hedgerows on the proposed site should be retained.
- The increased traffic that the new development will bring will add to the congestion on Keld Head Road. The location of the access from the new development onto Keld Head Road must be carefully considered to minimise the impact.
- Can the existing infrastructure cope with sewage, top water dispersal etc?
- New housing development in Kirkbymoorside but no new jobs created.
- Are there any proposed developments to increase the size of facilities in Kirkbymoorside to match the number of increased residents. i.e. doctors, schools and shops etc?
- Two storey properties are out of character for the position of the site when it is surrounded by single storey dwellings
- There will be an increase in traffic flow down Gillamoor Road which due to parked cars is already quite hazardous.
- The field attracts frequent visits from Barn Owls.
- There should be no more than a maximum of 19 dwellings to avoid a cramped and overcrowded site.

7.33. The comments relating to private rights of access to maintain boundaries are not a matter of planning control.

## **8.0 Environment Impact Assessment (EIA)**

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

## **9.0 Main Issues**

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

- Principle of the development;
- Affordable housing;
- Design, form and scale and impact on the character of the settlement and AHLV;
- Residential amenity;
- Highway safety;
- Landscaping, trees & ecological impact;
- Drainage;
- Archaeology;
- Contaminated Land; and
- Minerals Safeguarding.

## 10.0 **ASSESSMENT**

### Principle of Development

- 10.1. The site is within the development limits for Kirkbymoorside. Policy SP1 ('General Location of Development and Settlement Hierarchy') of the Local Plan Strategy sets out a hierarchy of settlements and seeks to focus new development within the Principal Towns, Market Towns and Service Villages. Kirkbymoorside is a 'Local Service Centre' (Market Town) in the Settlement Hierarchy, a secondary focus for growth. Policy SP1 confirms that the settlement is expected to be subject to "*Limited housing growth to address local employment and housing and community requirements*".
- 10.2. The principal of the settlement hierarchy is to ensure that development is distributed appropriately, to locations with appropriate infrastructure and additionally to ensure that the rural nature of the district, particularly those locations lower down the hierarchy, is maintained. The application site is on the northwestern edge of the town but can be considered a sustainable location within reach of the centre of Kirkbymoorside where there are a range of services and facilities.
- 10.3. Policy SP2 ('Delivery and Distribution of new housing') of the Local Plan Strategy provides guidance on the distribution of new homes within Ryedale with Kirkbymoorside being allocated approximately 10% which equates to circa 300 new homes within the town. In particular, this policy states that site spatial identification will be focused around the identification of small-medium sized sites predominantly to the north of the A170 and to the east and west of the town thereby avoiding coalescence with Keldholme. The site is the last of the three housing allocations within Kirkbymoorside to be brought forward to a planning application.
- 10.4. Policy SP2 sets out the districts aim in terms of housing delivery and importantly, the areas where they wish to see housing schemes come forward. In areas defined as Local Service Centres such as Kirkbymoorside, sites to be considered sources of housing include '*Housing Land Allocations in and adjacent to the built up area*'.
- 10.5. The site is allocated for housing within the adopted Ryedale Plan Local Plan Sites Document (Policy SD8) and, as such, forms part of the adopted statutory Development Plan. Therefore the principle of residential development has been already established by the allocation of the land and the site makes an important contribution towards the supply of deliverable housing. Since that allocation there have been no significant changes at the site, or in policy, that would justify the Council taking a different view with regard to the acceptability of the development in principle. Latest figures (March 2023) continue to demonstrate a housing land supply in excess of 5 years is achievable against Local Plan Housing requirement of 200 dpa, and the Standard Method figure of 186 dpa (rising recently to 193 dpa using new household projections) which is used to assess land supply when the Development Plan is more than 5 years old. Consequently, the Development Plan retains primacy and in accordance with Paragraph 11 of the NPPF it is advised that planning permission should be granted for a development proposal such as this unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits and where the NPPF indicates development would be restricted.

- 10.6. The spatial planning principles established within the Ryedale Local Plan Strategy document were taken into account when the application site was identified as a housing allocation within the Ryedale Local Plan sites document. As such, the principle of proposed residential development on the application site is fully in accordance with the local planning policy objectives and land use.
- 10.7. Should outline approval be granted by the LPA it would be the planning permission for the development of the site, and it is important that the LPA has a clear understanding of how the site will be developed. It is noted that the proposal slightly exceeds the yield (18 dwellings) set out in the Local Plan Sites Document. The fact that the application proposes a number that is in excess of the indicative figure does not amount to a conflict in principle with the Council's policy. Whilst the yield is only an indicative figure of the total number of units to be provided, it nevertheless influences the site layout and can have knock-on effects for other aspects of plan compliance. This outline application seeks approval of access, layout and scale which are considered in detail later in this report.

#### Affordable Housing

- 10.8. The proposed development would be for 19 units. Policy SP3 (Affordable Housing) requires 35% on site affordable housing provision which equates to 6.65 affordable units to meet the policy requirement. The applicant proposes 6 affordable units comprising 4no. 2bed 4 person units and 2no. 3 bed 5 person units and a financial contribution of 0.65 of a unit (£42,185) to meet the policy requirement.
- 10.9. The proposed Gross Internal Floor Area of the affordable units meet space standards set out in 'Nationally Described Space Standards – Technical Requirements Consultation', dated March 2015.
- 10.10. The Council's Housing Officer supports the application but requests that the 2no. 3 bed 5 person units be of Intermediate tenure with the 4no. 2bed 4 person units to be social/affordable rent.
- 10.11. The affordable housing mix, tenure and minimum floor areas and the commuted sum will be secured via the Section 106 agreement. In light of this it can be confirmed that the application complies with the requirements of Policy SP3.

#### Design, form and scale and impact on the character of the settlement and AHLV

- 10.12. Policy SP16 (Design) requires development to reinforce local distinctiveness and the location, siting, form, layout, scale and detailed design should respect the context provided by its surroundings and be well related to adjacent buildings. Attention should be paid to the orientation of buildings, boundaries, spaces between buildings and the density, size and scale of buildings.
- 10.13. Paragraph 130 of the NPPF (2021) advises that planning decisions should ensure that developments:

- function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

10.14. The site is located within an Area of High Landscape Value. Policy SP13 (Landscapes) provides protection for the distinctive elements of landscape character, topography and long distance views. Policy SP13 states that the loss or degradation of the elements that are integral to the historic landscape character make these landscapes particularly sensitive to change.

10.15. The yield stated in Policy SD8 of the Ryedale Plan Local Plan Sites Document is not an absolute figure and it is accepted that the precise figure is to be determined at planning application stage. The exceedance by one unit is not considered to be significant in this case given that the overall density of development still amounts to less than 30 units per hectare which does not depart from the character of this part of the settlement.

10.16. The residential development will be served by a single point of access connecting to the public highway (Keld Head Road) with no frontage access to individual plots. The internal access road loops through the site providing direct access to all dwellings and two turning heads.

10.17. In terms of housing mix the development layout shows two storey houses comprised in a variety of semi-detached and detached types set within good size and appropriately spaced plots. The variation in building footprint and frontage widths will provide visual interest in the streetscene. No design details or landscape proposals are provided at this stage.

10.18. Keld Head Orchard to the south of the application site is a well-established residential development comprising a mix of single, one and half and two storey dwellings. The proposed development has a similar spatial layout and street pattern to Keld Head Orchard. The 19 dwellings would be located within plots sufficient to provide for adequate spatial distances between the dwellings. The dwellings would be orientated to face the road within the site and sited to provide adequate stand offs from the site boundaries and neighbouring buildings. The proposed dwellings in the southern part

of the development site are to be sited sideways on to Keld Head Road in a similar arrangement to those of Keld Head Orchard.

- 10.19. It is noted that a local resident has expressed concern that the proposed dwellings are all two storey in light of the number of bungalows in the vicinity.
- 10.20. Policy SD8 limits the height of the dwellings to two storeys. All the proposed dwellings are to be two storeys in height although, unlike the bungalows to the south, the buildings will be inset from the site boundary by 8-12 metres and as a result will not dominate the streetscene or the bungalows to the south. A condition shall limit the height of the dwellings to a maximum of two storeys in line with the Development Principles (SD8) for the site. The indicative site sections show how the development would respond to the topography of the site. A condition shall be imposed to confirm final finished floor levels and eaves and ridge heights in line with the scale parameters secured by condition.
- 10.21. The proposed layout provides definition for public and private spaces and the future detailed design will consider the need to reduce opportunities for crime. The proposed layout has taken account of the observations of the Police DOCO and the Public Open Space and footpaths have been revised to improve natural surveillance. The detail of windows, lighting and boundary treatments which contribute towards create a safe and secure environment for all users will be confirmed at reserved matters stage and relevant conditions will be included on the outline permission.
- 10.22. The proposed layout for the development is a template that provides for a high-quality local environment for residents with suitably sized private rear gardens and appropriate off-street parking provision in line with Policy SP4. Each dwelling has dedicated private parking in the form of a driveway to the side of the dwelling and in some cases garages positioned behind the front building line of the host dwelling.
- 10.23. The layout suitably absorbs the parking demands with unobtrusive garages set back so to not dominate the street and in-curtilage parking to minimise the dominance of parked vehicles in the streetscene. It is considered that the residential development is capable of being accommodated without detriment to the character of this part of the settlement.
- 10.24. Landscaping is reserved but the layout identifies areas of landscaping and public open space and the indicative street and plot design seeks to integrate natural landscape features and planting helps to soften the appearance of the development and allow it to suitably integrate with its surroundings.
- 10.25. It is proposed to introduce a new native hedgerow running north to south that splits the site into two linear portions. This feature is a reference to the field patterns in the locality and would form the rear boundary for plots 16-19 located centrally within the site. The final details of the landscaping is reserved but it is clear that, given the change in level across the site, the new hedgerow provides an opportunity to minimise the impact of retaining structures.

- 10.26. The outline application demonstrates that the proposed housing scheme can be delivered in this location to complement the character of the settlement and the locally valued landscape in compliance with Policy SP13.
- 10.27. Appearance is reserved although the application includes indicative detail such as a proposed materials palette and elevations for an example house type accompanied by site and streetscene visualisations. The construction materials that are indicated are in keeping with local vernacular and considered to be acceptable in principle and the suggested detailing for windows, doors and chimneys will add visual interest and suitable variation to the design for each house type.
- 10.28. The final detailed designs of the individual dwellings and the full landscaping proposals remain to be submitted with a future reserved matters application and accordingly conditions in relation to materials, samples, window details, landscaping, boundary treatments, external lighting and surfacing have been recommended. On the basis of what is currently submitted the proposal is considered to be acceptable in terms of layout, scale and access. Overall, there is no reason to conclude that the indicative design, materials and detailed landscaping for the development cannot achieve a high quality development that takes into account local influences, context and distinctiveness as required by Policies SP13, SP16 and the NPPF.

#### Residential amenity

- 10.29. As required by Policy SP20 (Generic Development Management Issues) the development should respect the character of the area without having a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.
- 10.30. It is considered that the layout provides for adequate relationships between dwellings within the site and that the separation distances (front to front, back to back, side to rear) between units is acceptable to ensure no loss of privacy between habitable rooms or loss of outlook for future occupants. The siting, spacing, scale and height of proposed two storey dwellings would not give rise to any loss of light or overbearing impacts for future occupants of the 19 plots. Each of the proposed dwellings is provided with off-street parking, appropriately sized private rear gardens and access to areas of public open space within the site which contribute towards a good standard of residential amenity.
- 10.31. To the east of the application site stands the detached dormer bungalow 'Keld Head' which sits within a substantial plot which extends the entire length of the eastern boundary of the application site. At its closest point 'Keld Head' stands approximately 5 metres from the boundary with the application site. The majority of the outdoor space associated with 'Keld Head' is to the front (south-east) but the property does benefit from a private rear garden on its northern side. The occupants of 'Keld Head' have queried the potential for loss of privacy and overlooking of their property.

- 10.32. The dwellings in plots 1-4 are to be sited forward of, and perpendicular to the adjacent dormer bungalow ('Keld Head') with their rear elevations facing across the front garden area. During the course of processing the application the applicant amended the road alignment which allowed the dwellings in plots 1-4 to be moved a further 1.4 metres from the east boundary with 'Keld Head'. As a result the rear elevation of those four dwellings is c.8 metres from the eastern boundary. It is proposed to retain the existing landscape features located on the site's boundaries. The mature hedgerow forming the eastern boundary for plots 1-4 would provide a suitable degree of screening at ground floor level and no loss of amenity for occupants of 'Keld Head' is anticipated.
- 10.33. The dwellings proposed in plots 3 & 4 are the nearest dwellings to 'Keld Head'. The first floor windows in the rear elevation of the dwellings in plots 3 & 4 would face across the front of 'Keld Head'.
- 10.34. To avoid any perceived overlooking of the area for the occupants of 'Keld Head' the applicant has agreed to a condition being imposed that requires any first floor windows in the rear (north-east) facing elevations of dwellings in plots 3 and 4 to be permanently obscure glazed and top hung or fixed (non-opening). The rear garden of 'Keld Head' would not be directly overlooked by any of the proposed dwellings.
- 10.35. The dwellings in plots 1 & 2 are in excess of 20 metres from the front elevation of 'Keld Head' and any views towards the front of the property would be at an oblique angle. Any first floor windows in the rear elevation of dwellings proposed in plots 1 & 2 would overlook the southern end of the front garden of 'Keld Head' furthest from the dwelling itself. This part of the front garden is already subject to overlooking over a similar distance from numbers 1 & 3 Waydale Close to the east and, to a degree, from the public highway to the south and there are no loss of privacy concerns arising from plots 1 & 2.
- 10.36. The two storey dwellings in plots 1-4 do not have excessive proportions with eaves heights of 4.72m and ridge heights of 7.76m. The application site is elevated in relation to 'Keld Head' and the site sections indicate that the eaves of the proposed two storey dwellings in plots 3 & 4 would be approximately level with the ridge of 'Keld Head'.
- 10.37. To ensure that the impact of the development is mitigated the finished ground/floor levels of the proposed dwellings will follow the topography of the site with no significant land raising/levelling necessary. A condition shall limit the height of the dwellings to a maximum of two storeys and will require approval of final finished floor levels and eaves and ridge heights. Taking account of the above no overbearing impacts or loss of light is anticipated for the occupants of 'Keld Head'.
- 10.38. In light of the site's proximity to existing residential receptors to the east and south a condition shall be imposed to limit hours of construction work.
- 10.39. The proposed residential development of the site is considered to be compatible with neighbouring land uses with no unacceptable impacts on the living conditions of occupants of adjacent dwellings in terms of overbearing impact, overshadowing or overlooking/loss of privacy in compliance with Policy SP20.

### Highway safety

- 10.40. Policy SP20 (Generic Development Management Issues) advises that *“Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads”*.
- 10.41. Paragraph 111 of the NPPF (2021) advises that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.
- 10.42. The proposed access point is considered to be suitable and the internal road layout is appropriate. Each dwelling is to be served by off street parking within its curtilage and the provision is in line with NYC guidance on minimum parking standards for new residential developments. There are footpath connections within the site and the development encourages sustainable modes of transport through the provision of secure cycle parking and EV charging points to all dwellings.
- 10.43. The Local Highway Authority (LHA) have confirmed no objections but highlight that the site should be developed with an adoptable estate road layout. The Local Highway Authority request that a positive outfall for surface water drainage from the new estate road is established at the earliest stage. Off-site works to widen the carriageway to match the existing carriageway width covering the site frontage will be required and will be secured via a Section 278 agreement - the agreement should take into account the site entrance and footway provision up to Keld Head Orchard and additional street lighting and road drainage along Keld Head Road.
- 10.44. The LHA recommend conditions in respect of engineering drawings for roads and sewers and programme for delivery; construction of roads and footways; visibility splays; off-site highway mitigation measures (carriageway widening, additional drainage, footway and tactile crossing, street lighting); Stage 2 Road Safety Audit; details of access, parking and turning; and a Construction Management Plan.
- 10.45. The applicant has provided revised site layout plans to reflect the requirement to extend the upgrading of Keld Head Road along the full frontage of the application site. A 2 metre wide footway is shown to one side of Keld Head Road, along the south side, which extends the existing provision, whilst a verge is retained on the north side minimising disturbance to the established trees and hedgerow along this boundary.
- 10.46. The LHA has reiterated no objections and have updated their recommended schedule of conditions to reflect the further detail shown on the revised plans.
- 10.47. The residential development would result in increased vehicular traffic but subject to the necessary road improvements it is not anticipated that the modest intensification of use would give rise to highway safety concerns and it is considered that the proposed development complies with the requirements of Policy SP20 and the NPPF.

### Landscaping, trees & ecological impact

- 10.48. The site falls within an Area of High Landscape Value. The landscaping of the development is a reserved matter and is not subject to detailed consideration at this stage.
- 10.49. Whilst there are no TPO trees on site at present the adopted development principles (Policy SD8) require the retention of mature boundary trees and a landscaping scheme to enhance boundary planting. The application is accompanied by an Arboricultural Assessment and the developable part of the site takes account of the required Root Protection Areas (RPAs) of all the trees as recommended in Tree Schedule contained in the Arboricultural Assessment. The Arboricultural Assessment also recommends that a 5 metre root protection area be implemented from the centre line of the hedgerows. The Arboricultural Assessment notes that there are ash trees on the western boundary suffering from ash die back and the potential impact will be kept under review.
- 10.50. The Council's Tree and Landscape Officer has no objections but following consideration of the plans and the Arboricultural Assessment recommends that a TPO be raised to cover several trees of mixed species on the site boundary. The Tree and Landscape Officer has undertaken a TPO assessment and explains that these trees can be safeguarded during development though the threat to the trees, as a result of ownership changes and development, are such that a TPO is justified. The Tree and Landscape Officer also recommends conditions to secure root protection areas and a landscaping scheme.
- 10.51. The proposed site layout provides for the retention of existing landscape features on the site's boundaries and the augmentation of existing field hedges by additional infill planting with native species including new trees along the southern, roadside boundary and in the areas of Public Open Space. A section of hedgerow is to be removed to form the improved access roadway although a new native hedge is proposed to be planted on a north-south alignment through the centre of the site.
- 10.52. The application is accompanied by a Preliminary Ecological Assessment (PEA). The assessment identifies that habitats within the site comprise improved grassland bounded by trees, scrub and species rich hedgerows. In terms of protected species a pond 110 metres south-west of the site has been identified as having a Great Crested Newt population.
- 10.53. The applicant's ecologist has concluded that there is sufficient risk to Great Crested Newts to require either a mitigation under a Protected Species License or an application to the District Level Licensing Scheme administered by Natural England prior to construction work commencing. If Great Crested Newt mitigation is to be dealt with via Natural England's District Level Licensing Scheme which would mean that no further action by the LPA is required with regards to GCN mitigation. A condition shall be imposed in relation to the licensing.

- 10.54. There are no ecological constraints in respect of birds, badger and reptiles and no further surveys recommended. The Council's Ecologist has also provided advice in relation to bats and the assessment recommends that bat and bird boxes are installed around the site and that any lighting scheme be designed with the welfare of bats in mind. A condition will require that an Ecological Management Plan be submitted at reserved matters stage.
- 10.55. The Council's Ecologist has confirmed that the applicant will need to demonstrate how they would deliver net gains for biodiversity. Whilst the 10% BNG uplift is not yet mandatory the NPPF and also Policy SP14 of the RPLPS (2013) require a net gain in biodiversity to be provided as part of new development schemes. In light of landscaping being a reserved matter it is reasonable to condition the requirement for BNG calculations and delivery.
- 10.56. It is considered that the development would not result in adverse impacts on habitats and protected species and appropriate mitigation and enhancement can be secured in line with the NPPF and Policy SP14.

#### Flood Risk & Drainage

- 10.57. The site is within Flood Zone 1 and the application is accompanied by a Flood Risk Assessment which confirms the low risk of flooding.
- 10.58. The NPPF and Policy SP17 requires development to incorporate sustainable drainage systems and techniques in line with the drainage hierarchy unless there is clear evidence that this would be inappropriate.
- 10.59. Planning practice guidance acknowledges that particular types of sustainable drainage features may not be practicable or appropriate in some locations. The drainage strategy which accompanies this application has indicated that the ground conditions across the site would not be suitable for the use of soakaways. Furthermore, there are no watercourses within or immediately adjacent to the site and it has been established that the site is not within an area covered by an Internal Drainage Board.
- 10.60. The proposed surface water system comprises on-site storage in an underground tank in the south-east corner of the site and a reduced flow to sewers via the use of a hydrobrake system.
- 10.61. In their initial response Yorkshire Water (YW) highlighted that further detail of the means of surface water management is required including consideration of the surface water drainage hierarchy but proposed that the matter is dealt with via conditions attached to an outline permission.
- 10.62. The applicant has opted to provide further information pre-determination and the revised drainage drawing takes account of YW's initial comments. The details confirm the areas of the site where it is possible to locate infiltration systems/soakaways and where it is not, taking account of the underlying clay strata close to the surface. It is proposed that only two dwellings can be served by soakaways (Plots 5 & 10) and YW have accepted the justification for the proposed drainage strategy.

- 10.63. It is proposed that surface water is discharged to the 150mm diameter public combined water sewer located within Keld Head Road via storage with restricted discharge of 3.5 litres/second. The volume of on-site storage to be provided would allow the attenuation of flows to acceptable levels prior to outfall to the public combined sewer.
- 10.64. It is proposed that foul water will discharge to the 150mm diameter public combined water sewer located within Keld Head Road (gravity connection) to the south east of the site. Yorkshire Water has no objection to the proposed amount of domestic foul water to be discharged to the public combined water sewer network.
- 10.65. Yorkshire Water has no objection to the application and is satisfied with the proposed systems, connections and discharge rates for foul and surface water. It is clear that alternative means of surface water disposal have been considered and discounted prior to discharge to the public combined water sewer network. The proposals provide for separate systems of drainage on-site with combined off-site and, overall, represent a reasonable approach to the management of surface and foul water arising from the development in accordance with the NPPF and Policy SP17.

#### Archaeology

- 10.66. The application includes a report on an archaeological desk based assessment and geophysical survey. The Council's Archaeologist notes that although there is good background of archaeological activity in the wider area the geophysical survey was largely negative. The Council's Archaeologist agrees that the site has some archaeological potential but it is low and further archaeological work is likely to be unproductive. The Council's Archaeologist has confirmed no objections to the application and the proposal complies with the NPPF and Policy SP12.

#### Contaminated Land

- 10.67. The application is accompanied by a Phase 1 contaminated land report which identifies that the risk of contamination is considered to be very low. Nevertheless, the Council's EHO notes that the submitted report recommends a preliminary investigation is completed comprising dynamic sampling and trial pitting to determine ground conditions; geotechnical testing of the soils to identify volume change potential of cohesive material, concrete classification and predicted CBR values; and should unrecorded potential contamination sources be encountered these will need to be subjected to quantitative chemical analysis.
- 10.68. Therefore, the Council's EHO recommends that standard conditions are imposed in relation to contaminated land investigation and risk assessment to ensure that the proposal complies with Policy SP17.

#### Minerals Safeguarding

- 10.69. The site development principles set out in the site allocation (Policy SD8) requires feasibility and viability of the extraction/utilisation of the minerals resource to be demonstrated.

10.70. The application is accompanied by a Minerals Safeguarding Assessment which concludes that any mineral extraction at the site would be uneconomical, undesirable and unlikely to occur and should not prevent the proposed residential development coming forward.

10.71. The Council's Mineral's and Waste Planning Team have confirmed that there are no active quarry sites or waste facilities within 500 metres of site and no sites have been proposed for allocation for minerals or waste activities in the Minerals or Waste Joint Plan within that 500m zone. The site is within a Minerals Safeguarding Area but falls under the exemption criteria (allocated for development in the Local Plan).

#### Community Infrastructure Levy (CIL)

10.72. The proposed development is CIL liable at £85 per square metre. This charge would be applicable at the Reserved Matters stage when the floor area of the buildings is known.

#### Section 106 Legal Agreement

10.73. A Section 106 legal agreement will be required in line with Policies SP3, SP11 and SP22 of the Ryedale Plan Local Plan Strategy. The S106 will secure the on-site open space provision; management and maintenance and also secure the delivery of the on-site provision of 6 affordable dwellings (mix, tenure, minimum floor area, method of delivery, management of the units, timing of construction, transfer, acquisition prices and occupancy) and commuted sum equivalent to 0.65 of a unit. The applicant has submitted Draft Heads of Terms for a Section 106 agreement which, at the time of writing this report, are with the Council's Legal Officer.

<b>Table 1</b>		
<b>Category/Type</b>	<b>Contribution</b>	<b>Amount &amp; Trigger</b>
Affordable Housing	On-site units	6no. dwellings
Affordable Housing	Commuted sum	Equivalent to 0.65 of a unit
POS Delivery, Management and Maintenance	On-site open space	Delivery to be agreed in Open Space Scheme.

## **11.0 PLANNING BALANCE AND CONCLUSION**

11.1. The site is within the development limits of a Local Service Centre and is allocated for housing within the adopted Development Plan. The development of this small size site would contribute towards meeting the 300 home requirement of Kirkbymoorside. The principle of the development is considered to align with national and local planning policy and represents development that accords with the adopted development plan.

11.2. The development proposals in this application would provide an outline template for residential development at the site and the proposed access, scale and layout is

considered acceptable and in line with the adopted Development Principles for this allocated site. Appearance and landscaping are to be reserved for future consideration.

- 11.3. The application is subject to a small number of representations and there are no objections to the application from any consultees or members of the public. The comments and concerns that have been raised by neighbours and the Town Council have been taken into account where relevant to the principle of development; access, scale and layout.
- 11.4. The proposed development is not considered to have an unacceptable impact on the open countryside, landscape, local amenity, highway safety, ecology, archaeology or flood risk. In light of the above assessment, it is considered that the proposal is acceptable and that it complies with the abovementioned listed policies of the adopted Ryedale Plan - Local Plan Strategy; the adopted Sites Document and the National Planning Policy Framework.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission be **GRANTED** subject to conditions listed below and completion of a Section 106 legal agreement with regard to affordable housing, commuted sum and Public Open Space as detailed in Table 1.

### **Recommended conditions:**

- 1 Commencement time limit  
Application for approval of reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- The development hereby permitted shall be begun on or before whichever is the later of the following dates:-
- The expiration of two years from the final approval of the reserved matters or (in the case of approval on different dates) the final approval of the last such matters approved.
- Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 Reserved Matter approval  
No development shall take place without the prior written approval of the Local Planning Authority of all details of the following reserved matters:-
- (i) Appearance; and  
(ii) Landscaping.
- Reason:- To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.
- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan ref. EX\_001, dated 10/2021

Proposed Site Layout ref. PL\_001 Rev B, dated 31/08/2023  
 Proposed Highways Access ref. PL\_002 Rev A, dated 25/06/2023  
 Proposed Drainage Strategy ref. PL\_003 Rev B, dated 31/08/2023  
 Proposed Elevation Studies: Suggested Materials ref. PL\_009, dated 02/2023  
 Proposed Public Open Space ref. PL\_011, dated 02/2023

Reason: For the avoidance of doubt and in the interests of proper planning

- 4 The details to be submitted for approval of the matters reserved by **condition 2** (appearance & landscaping) above shall be substantially in accordance with the detail shown on Proposed Elevation Studies: Suggested Materials ref. PL\_009, dated 02/2023 and that described in Sections 5.1.15 & 8.0 of the Planning Statement dated 16 February 2023.

Reason:- To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

- 5 Housing numbers  
 The development hereby permitted shall comprise no more than 19 dwellings.

Reason:- To safeguard the rights of control by the Local Planning Authority.

- 6 Scale  
 The height of the dwellings hereby approved shall be limited to a maximum of two storeys. The details to be submitted for approval of the matters reserved by condition 2 shall be substantially in accordance with the approved scale parameters as detailed in the Accommodation Schedule as shown on drawing ref. PL\_001 Rev B, dated 31/08/2023.

- 7 Access  
 The access to the development hereby permitted shall be carried out in accordance with the following approved plan: Proposed Highways Access ref. PL\_002 Rev A, dated 25/06/2023

Reason: To ensure safe and appropriate access and egress to the site in the interests of highway safety in compliance with Policy SP20.

- 8 Detailed Plans of Road and Footway Layout  
 Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings.

Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in compliance with Policy SP20.

- 9 Construction of Adoptable Roads and Footways  
 No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is

constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users in compliance with Policy SP20.

10 Visibility Splays at access at Land at Keld Head Road

There must be no access or egress by any vehicles between the highway and the application site at Keld Head Road until splays are provided giving clear visibility of 45 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety in compliance with Policy SP20.

11 Delivery of off-site highway Works

The following schemes of off-site highway mitigation measures must be completed as indicated below:

- Carriageway widening and additional drainage at Land at Keld Head Road
- Footway and tactile crossing installation wherever necessary on both sides at Land at Keld Head Road
- Additional street lighting at Land at Keld Head Road

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason: To ensure that the design is appropriate in the interests of the safety and convenience of highway users in compliance with Policy SP20.

12 Parking for Dwellings

No dwelling must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development in compliance with Policy SP20.

13 Construction Management Plan

No development for any phase of the development must commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. the parking of contractors' site operatives and visitor's vehicles;
4. areas for storage of plant and materials used in constructing the development clear of the highway;
5. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
6. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
7. protection of carriageway and footway users at all times during demolition and construction;
8. protection of contractors working adjacent to the highway;
9. details of site working hours;
10. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
11. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
12. measures to control and monitor construction noise;
13. an undertaking that there must be no burning of materials on site at any time during construction;
14. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
15. details of the measures to be taken for the protection of trees;
16. details of external lighting equipment;
17. details of ditches to be piped during the construction phases;
18. a detailed method statement and programme for the building works; and
19. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity in compliance with Policy SP20.

14 Electric Vehicles Charging Points

Prior to the commencement of any aboveground construction work a scheme for the provision of one electric vehicle charging point per dwelling shall be submitted to and

approved in writing by the Local Planning Authority. Thereafter, the EV charging points shall be installed in accordance with the approved details prior to occupation of the dwelling.

Reason:- To promote sustainable transport and in accordance with the development principles for the site.

15 Contaminated Land Phase 2

Development shall not begin until a Phase 2 Investigation and assessment, including investigation works as recommended within the PHASE 1 QUALITATIVE CONTAMINATED LAND DESK STUDY RISK ASSESSMENT December 2022 to determine if any contamination is present on the proposed development site and establish if there are any viable exposure pathways and whether there is an unacceptable risk to future end users of the site. The investigation and risk assessment should be undertaken by a competent person with the report findings submitted to and approved in writing by the Local Planning Authority. This report should include an appropriate survey of the nature and extent of any contamination affecting the site and an assessment of the potential risks to human health, property, controlled waters and ecological systems. Reports should be prepared in accordance with contaminated Land Report 11 and BS 10175 (2013) Code of practice for the Investigation of Potentially Contaminated Sites.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and to satisfy Policy SP17 and the NPPF.

16 Remediation

Where land affected by contamination is found which poses risks identified as unacceptable, no development or remediation shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the Local Planning Authority. The scheme must include proposed remediation objectives and remediation criteria, an appraisal of remedial options and proposal of the preferred option(s), all works to be undertaken, and a description and programme of the works to be undertaken including the verification plan.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and to satisfy Policy SP17 and the NPPF.

17 Verification

Unless otherwise agreed in writing by the Local Planning Authority, no dwelling shall not be occupied until the approved scheme of remediation has been completed, and a verification report demonstrating the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any additional monitoring or sampling, evidence that any imported soil is from a suitable source, and copies of relevant waste documentation for any contaminated material removed from the site.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely

without unacceptable risks to workers, neighbours and other receptors and to satisfy Policy SP17 and the NPPF.

18 Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately to the Local Planning Authority, and work must cease until an appropriate investigation and risk assessment must be undertaken. Where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the Local Planning Authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and to satisfy Policy SP17 and the NPPF.

19 Site levels

Prior to the commencement of the development hereby approved precise details of the existing ground levels and the proposed finished floor levels, eaves and ridge levels measured in relation to a fixed datum point shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure a satisfactory external appearance and to satisfy Policy SP20.

20 Materials palette

Prior to the commencement of any aboveground construction work a detailed materials palette accompanied by streetscape visualisations shall be submitted to and approved in writing by the Local Planning Authority. The details shall be substantially in accordance with the details shown on Proposed Elevation Studies: Suggested Materials ref. PL\_009, dated 02/2023 unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to achieve a high standard of design.

21 Materials (surfaces)

Prior to installation details of the ground surfacing materials shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- To ensure a satisfactory external appearance.

22 Materials (samples)

Prior to the commencement of any aboveground construction work details and samples of the materials to be used on the exterior of the buildings the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy SP16.

23 Materials (panels)

Prior to the commencement of any aboveground construction work the developer

shall construct on site for the written approval of the Local Planning Authority, a one metre square free standing panel(s) of the external walling to be used in the construction of buildings. The panel so constructed shall be retained only until the development has been completed.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy SP20.

24 Windows and doors

Prior to the commencement of any aboveground construction work details of all windows, doors and garage doors, including means of opening, depth of reveal and external finish shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure an appropriate appearance and to comply with the requirements of Policy SP20.

25 Lighting

Prior to the commencement of any aboveground construction work a detailed scheme of public lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height, angle of lighting, illuminance level and hours of operation. All lighting shall be installed and maintained in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure safe access to the public open space.

26 Boundary treatments

Prior to the commencement of any aboveground construction work details of the proposed means of enclosure and boundary treatments, including a schedule of materials and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide for a replacement fence along the western side of the public open space parallel to the Balk suitable to ensure the safety of pedestrians using the public open space. The details so approved shall be implemented in full before the development is first brought into use, unless otherwise agreed in writing with the Local Planning Authority.

Reason:- To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality.

27 Retention of existing planting

No trees, shrubs, or hedges within the site that are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without prior written agreement with the Local Planning Authority.

Reason: To ensure the desirable retention of all landscape elements that are considered to be of amenity value.

28 Tree protection scheme (approval of details)

No development shall take place or any materials brought onto site until the specification for root protection area (RPA) fencing and ground protection measures in line with the requirements of British Standard BS 5837: 2012 Trees in Relation to Construction – Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan and for the entire area as specified in accordance with BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The

developer shall maintain such fences and ground protection until all development the subject of this permission is completed.

Reason:- To ensure that existing landscape features are not damaged and to enhance the development hereby permitted.

29 Tree protection

No operations shall commence on site in connection with the development hereby approved (including any demolition work, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the root protection area (RPA) and ground protection works required by the approved tree protection scheme (Condition 28 above) are in place. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority.

Reason: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area.

30 Landscape scheme

No development of the site shall take place without the prior written approval by the Local Planning Authority of a landscape scheme for the site that indicates numbers and densities, species, tree and plant sizes, and positions of all trees and shrubs, specifications and schedules, phasing of planting/timing of implementation, earthworks, seeding or turfing, existing plants to be retained and showing how new landscaping relates to any underground services and existing landscape features. Thereafter the scheme shall be implemented as approved unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and to achieve a high standard of landscaping.

31 Commencement of planting

All planting, seeding or turfing set out in the details approved in **Condition 30** shall be carried out in accordance with the approved phasing plan and beginning the first planting season following commencement of development or such longer period as may be agreed in writing with the Local Planning Authority. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and to achieve a high standard of landscaping.

32 Biodiversity Net Gain

Prior to the commencement of the development hereby permitted a detailed Biodiversity Net Gain (BNG) Assessment shall be submitted to and approved in writing by the Local Planning Authority. The delivery of BNG shall be quantified using the government's Biodiversity Metric 4.0 tool or any successor to show the balance of losses and gains. The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: In order to ensure that biodiversity net gain is achieved in accordance with Policy SP14.

33 Ecological Management Plan

Prior to the commencement of the development hereby permitted an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Management Plan should incorporate, but not be limited to, the recommendations contained within the Preliminary Ecological Appraisal, dated June 2022 in respect of the provision of bat boxes; timing of vegetation clearance; provision of bird nesting boxes; reducing risks to hedgehogs; and protection of hedgerows.

Reason: In the interests of nature conservation and enhancement in accordance with Policy SP14.

34 Great Crest Newts

Any works associated with the development which will impact the breeding/ resting place of Great Crested Newts, shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

- a) a Protected Species Licence or DLL certificate issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended); or
- b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

Reason: In order to take full account of protected species and to satisfy Policy SP14.

35 Drainage

The development shall be carried out in accordance with the details shown on the submitted Proposed Drainage Strategy ref. PL\_003 Rev B, dated 31/08/2023 prepared by Patrick Cuddy Architect, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of satisfactory and sustainable drainage in accordance with Policy SP17.

36 Crime prevention measures

Prior to the commencement of any aboveground construction work a scheme of crime prevention measures shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide rationale and mitigation that takes account of the observations, advice and recommendations contained within the Designing out Crime Report ref. 127-1-2023 MR dated, 21 March 2023.

Reason: To promote safe communities and to satisfy paragraphs 92 and 130 of the revised NPPF and Policy SP16.

37 Hours of construction

Any excavation or construction work associated with the development hereby approved shall be carried out only between the hours of:-

0800 -1800 hours Mondays to Fridays

0800 -1300 hours Saturdays

and at no time on Sundays and Bank (or Public) Holidays.

Reason: To protect local amenity during construction in accordance with Policy SP20.

38 Obscure glazing (Plot 3 & 4)

Any first floor windows in the rear (north-east) facing elevations of dwellings in plots 3 and 4 (as shown on drawing ref. PL\_001 Rev B) shall be permanently obscure glazed with glass of Pilkington Level 5 obscuration or equivalent and shall be top

hung or fixed (non-opening). The obscure glazing and agreed means of opening shall be retained for the lifetime of the development.

Reason: To protect the privacy of neighbouring properties and to comply with Policy SP20 of the Ryedale Plan - Local Plan Strategy.

39 Removal of permitted development rights (garages)

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garages shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

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 in compliance with Policy SP20.

40 Removal of permitted development rights

Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or amending that Order) development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Classes A & AA: Enlargement, improvement or other alteration of a dwellinghouse

Class B: Additions etc to the roof of a dwellinghouse

Class C: Other alterations to the roof of a dwellinghouse

Class D: The erection or construction of a porch outside any external door of a dwellinghouse

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse

Reason: To ensure that the appearance of the areas is not prejudiced by the introduction of unacceptable materials and/or structure(s) in compliance with Policy SP20.

## INFORMATIVES

### Condition 8- Detailed Plans of Road and Footway Layouts

It is recommended that in order to avoid abortive work, discussions are held between the applicant, the Local Planning Authority and the Local Highway Authority before a draft layout is produced and any detailed planning submission is made.

To assist, the Local Highway Authority can provide a full list of information required to discharge this condition. It should be noted that approval to discharge the condition does not automatically confer approval for the purposes of entering any Agreement with the Local Highway Authority. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition

### Condition 9- Other Permissions required from the Local Highway Authority

Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions).

Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place.

#### Condition 10- Visibility Splays

An explanation of the terms used above is available from the Local Highway Authority.

#### Condition 11- Delivery of off-site highway works

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.

It is noted that there are currently no plans to remove any trees but if, at reserved matters stage, any of the ash trees on the western boundary are proposed to be felled further bat activity survey surveys will need to be carried out by a qualified ecologist between the months of May and August.

If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he/she should contact our Developer Services Team (telephone 03451 208 482, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

**Target Determination Date:** 23.05.2023

**Case Officer:** Alan Goforth, [alan.goforth@northyorks.gov.uk](mailto:alan.goforth@northyorks.gov.uk)

## North Yorkshire Council

### Community Development Services

#### Malton and Thirsk Area Constituency Committee

19 OCTOBER 2023

**23/00197/FUL - CHANGE OF USE OF LAND FOR THE SITING OF 6NO. SHEPHERDS HUTS FOR USE AS HOLIDAY ACCOMMODATION IN CONNECTION WITH EXISTING PUBLIC HOUSE, EXTENSION TO EXISTING CAR PARKING AREA TO SERVICE THE SHEPHERDS HUTS INCLUDING INSTALLATION OF 2NO. EV CHARGING POINTS, ERECTION OF 1NO. BICYCLE STORE AND ASSOCIATED LANDSCAPING INCLUDING MOUNDED BANKS AND EXCAVATION OF POND ON BEHALF OF MR MICHAEL BREAREY (PROVENANCE INNS LTD)**

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

##### 1.0 Purpose of the Report

- 1.1 To determine a planning application for the change of use of land for the siting of 6no. Shepherds huts for use as holiday accommodation in connection with existing public house, extension to existing car parking area to service the Shepherds huts including installation of 2no. EV charging points, erection of 1no. bicycle store and associated landscaping including mounded banks and excavation of pond on land at the Crown And Cushion, Main Street, Welburn
- 1.2 The application has been referred to the Committee for determination owing to the combination of public comment and objection in principle by the Council's Building Conservation Officer.

##### 2.0 EXECUTIVE SUMMARY

**RECOMMENDATION: That planning permission be GRANTED subject to conditions listed below.**

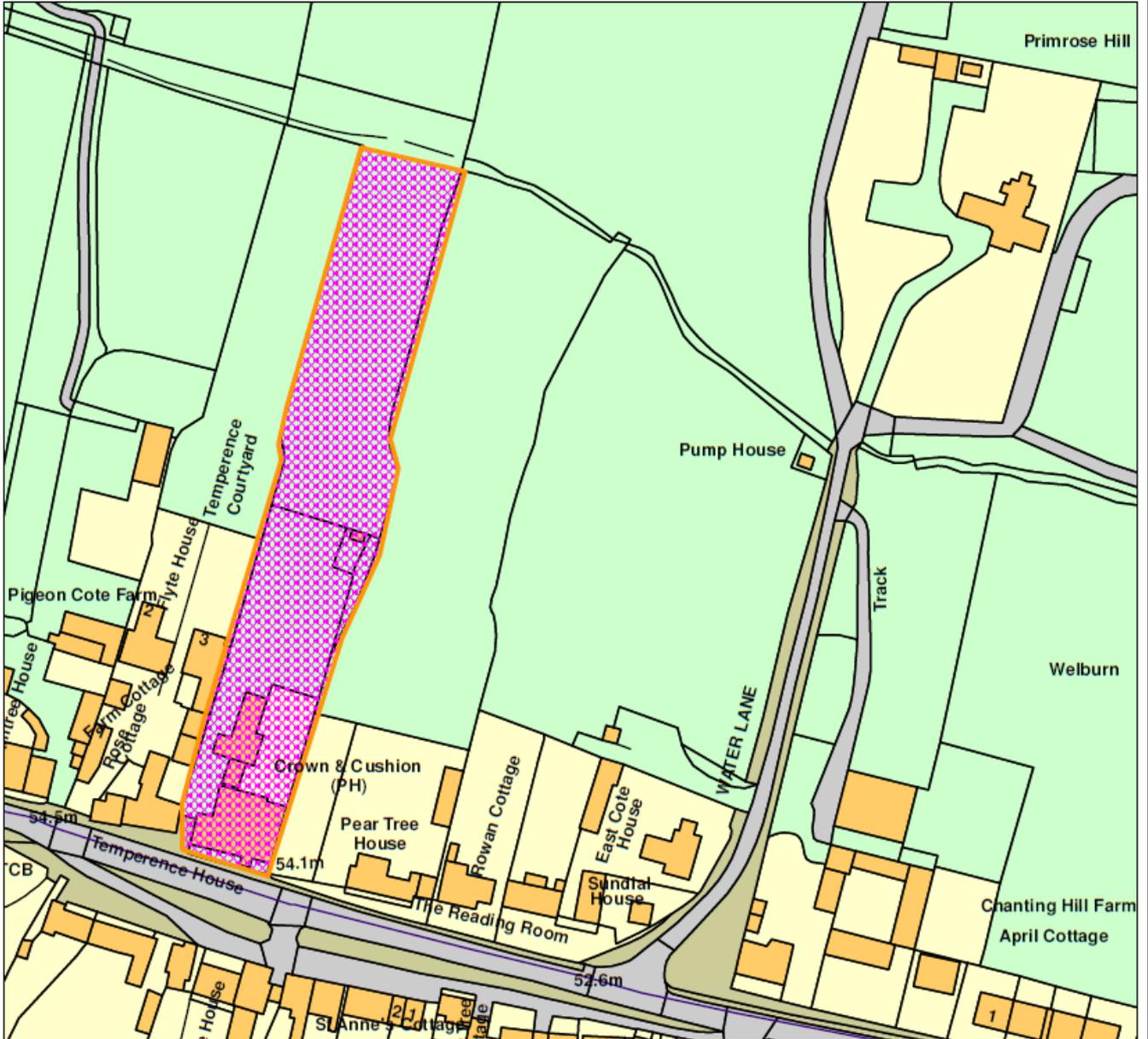
- 2.1. The Crown and Cushion public house is a Grade II listed building situated on the northern side of Main Street within Welburn Conservation Area. The public house falls within the village development limits, which terminates along the most northerly section of the expansive pub building. The Crown and Cushion incorporates a large car park to the north of the pub, beyond which is an open undeveloped paddock to the north both of which are located in land defined as the 'Wider Open Countryside' under the Ryedale Plan, Local Plan Strategy. The Conservation Area terminates c38m from the nearest section of the public house, close to the northern edge of the car park. The entire site also falls within the Howardian Hills Area of Outstanding Natural Beauty (AONB.)
- 2.2. The proposal seeks planning permission for the change of use of the open, undeveloped paddock land to the rear (north) of the Crown and Cushion car park for the siting of 6no. Shepherds huts for use as holiday accommodation in connection

with existing public house. This would include an extension to existing car parking area to provide 6 additional parking spaces and the installation of 2no. EV charging points, erection of 1no. bicycle store and associated landscaping including mounded banks and excavation of pond.

- 2.3. This amended scheme proposes 6no. huts in comparison to the originally proposed 8no. huts, also omitting the use of the originally proposed larger hut style and repositions the huts closer to the car park, to leave a greater open undeveloped area to the north and east of the site. It also includes the removal of the originally proposed hardstanding to the exterior of the huts, together with a reduced extent of paths and less lighting. The present scheme also includes amendments to landscaping, including additional indicative planting and the removal of benches to facilitate the originally proposed 'nature viewing area.'
- 2.4. The principle of the development is considered to align with the following policies contained within the Ryedale Plan; Policy SP1 (General Location of Development and Settlement Hierarchy) and SP8 (Tourism.)
- 2.5. The scheme has been also carefully considered in relation to the setting of the Welburn Conservation Area and the Grade II Listed public house, together with the potential impact upon the Howardian Hills AONB, the form and character of the site, drainage, ecology, neighbouring amenity, access and highway safety.
- 2.6. It is considered that the scheme as amended, secures an acceptable form and design, which would not harmfully impact the significance of the Howardian Hills AONB or the character of the paddock and could be delivered without harm to the local highway network, drainage or ecology. The scheme, subject to the conditioning of the Noise and Amenity Management Plan is not considered likely to result in material adverse amenity impacts for occupiers of adjoining dwellings and the less that substantial harm to the setting of the Welburn Conservation Area is balanced against the public benefit that securing on site accommodation would bring to the long term economic viability of the public house, which is identified as a community facility. It is also not considered that this would affect the setting of the Grade II Listed public house nor any other surrounding Listed Buildings.

23/00197/FUL

Not Set



**Scale:** 1:1,500

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	03/10/2023
MSA Number	Not Set

### **3.0 Preliminary Matters**

3.1. Access to the case file on Public Access can be found here:-  
<https://planningregister.ryedale.gov.uk/caonlineapplications/simpleSearchResults.do?action=firstPage>

3.2. There are 4 relevant planning applications for this site which are detailed below, as this relates only to the public house, the associated listed building consents have not been detailed.

13/00513/FUL: Erection of rear oak framed entrance lobby with extended pitched roof, formation of cellar entrance door and external paved area with ground level raised to form level access to the building. Approved 12.07.2013

13/00855/FUL: Change of use and alteration of outbuildings used for storage to a private dining room and lounge as additional facilities to the public house together with relocation of the rear drystone walling and signed entry gate to form an extended paved garden area. Approved 13.12.2013

15/00954/FUL: Erection of single storey extension to side elevation to form a kitchen. Approved 12.10.2015

15/00957/FUL: Erection of a single storey extension to rear elevation. Approved 23.11.2015

### **4.0 Site and Surroundings**

4.1. The Crown and Cushion public house is a Grade II listed building situated on the northern side of Main Street within Welburn Conservation Area. The public house falls within the village development limits, which terminates along the most northerly section of the expansive pub building.

4.2. Vehicular access to the site is taken directly from Main Street Welburn, to the large car park to the north of the public house building.

4.3. Beyond the car park is an open undeveloped paddock to the north both of which are located in land defined as the 'Wider Open Countryside' under the Ryedale Plan, Local Plan Strategy. The Conservation Area terminates c38m from the nearest section of the public house, close to the northern edge of the car park.

4.4. The entire site, including the public house, car park and paddock falls within the red line application site and extends to c0.32 hectares. The paddock area where the proposed Shepherds huts and new car parking spaces would be spans approximately 95m from north to south and 29m from east to west at its maximum points.

4.5. The entire site also falls within the Howardian Hills Area of Outstanding Natural Beauty (AONB.)

- 4.6. The paddock includes a beck within the most northerly section (which is a tributary of Cram Beck) crossing the site from east to west. Beyond this land levels rise notably. The paddock includes landscaping to the east and north in the form of a hedgerow with some gaps and mature tree planting to the west within the ownership of the land to the west.
- 4.7. The Crown and Cushion public house is adjoined to the east, west and beyond Main Street to the south by domestic properties. The paddock where the Shepherds huts and additional car parking spaces are proposed are adjoined by land which appears to fall under the ownership of 3 Temperance Courtyard to the west and open farmland to the north and east.
- 4.8. Public rights of way are present in Welburn, a bridleway from Water Lane northwards, from which views of the landscaped paddock can be achieved from the north east and a public right of way to the south of the village, from which no views of the site can be realised.

## **5.0 Description of Proposal**

- 5.1. This application seeks full planning permission for the change of use of land for the siting of 6no. Shepherds huts for use as holiday accommodation in connection with existing public house, extension to existing car parking area to service the Shepherds huts including installation of 2no. EV charging points, erection of 1no. bicycle store and associated landscaping including mounded banks and excavation of pond. As noted, this incorporates amendments from the originally submitted scheme and consequently was subject to reconsultation.
- 5.2. The 6no. proposed Shepherds huts would each span 5.06m x 2.5m in footprint, with a maximum height of c3.2m. They would incorporate a traditional Shepherds hut appearance, mounted on black, metal wheels and constructed of painted timber cladding, with a curved, corrugated roof. Each would have three oak windows, a stable style, oak access door and a flue. Internally this would provide a double bed, two armchairs, a coffee point, a wood burner and a sink, shower and toilet. As noted, the previously proposed outdoor terraces have been removed from the scheme but the units would be installed on a limestone shingle base, with appropriate sub base. The 6no. units would be located predominantly to the south and west of the paddock area, with a more open, undeveloped area retained to the west and north of the site.
- 5.3. The scheme would involve the provision of 6no. parking places for the proposed site users to the southern part of the paddock, directly adjoining the existing paddock. This however would be completed with hogging, in contrast to the hard surfacing of the existing car parking.
- 5.4. The amended scheme now relates to the 6no. units being located in a more confined area within the paddock, predominantly to the south and west. These huts would be accessed via a defined main central path, with limited connections to each unit. This

main path would terminate at the point of the most northerly unit to prevent incursion into the remainder of the paddock. These paths would also be completed with hogging and timber edge protection.

- 5.5. The proposed lighting scheme involves limited use of 7 strategically placed low level downlit bollards, positioned along the central path, these lights would include a maximum illumination of 360 lumens with the lighting orientated downwards. Each unit would have a single small 1000 lumen external light fitting attached to the unit. The four units located in closest to the village would have these positioned on the sides facing away from the neighbouring properties.
- 5.6. The wider works within the red line include the provision of additional landscaping, including the additional planting of trees, shrubs and a wildflower meadow, together with the creation of strategically placed gently mounded grassed banks, including a more expansive addition along the western boundary and in more limited areas to the north and south of Unit 3. Significant tree planting would be carried out along the proposed additional car parking spaces, with further landscaping along the southern boundary, internally within the site and to the north and east.
- 5.7. The scheme also includes the creation of a pond that would facilitate the diversion of the natural spring and collect surface water before flowing to the existing on site beck. This would be completed with a 1m high picket fence and would be designed to maximise ecological benefits and prevent flooding events.
- 5.8. An additional element of the scheme is the provision of a secure bicycle store, with capacity for 8no. bicycles. This would be located along the western boundary of the site, to the north western corner of the existing car park. It would incorporate a footprint of c4.9m from north to south and c2.86m from east to west. It would be constructed of timber, with a felt roof and would incorporate an open sided eastern elevation. Furthermore, a proportionate extension to the existing utilities compound sited to the north east of the existing car park would be undertaken. This would be extended by a maximum of c3.6m to the north, which would continue to be completed with c1.8m high close boarded fence.
- 5.9. 2no. EV charging points are also proposed directly to the north of the public house building. No specification has been provided of these units at this stage.

## **6.0 Planning Policy and Guidance**

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

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:  
The Ryedale Plan – Local Plan Strategy, adopted 2013

### Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- The Planning (Listed Buildings and Conservation Areas) Act 1990 .

## 7.0 **Consultation Responses**

- 7.1. The following consultation responses have been received, with the most recent summarised below. Full comments are available to view on the Council's website.
- 7.2. **Parish Council:** Original response withdrawn upon request received by Case Officer (10<sup>th</sup> May 2023)
- 7.3. **Building Conservation Officer:** Objection in principle *“Further to my objection in principle regarding the development of the land due to its harmful impact on the conservation area, the application has been revised from 8 units to 6 units with a reduction in car parking, lighting etc. My objection in principle is still maintained, however in my opinion the level of identified harm has been reduced to a low-mid range of less than substantial. According to paragraph 202 of the NPPF 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'”*
- 7.4. **Ecology:** No objection - *“Thank you for consulting the NYCC ecology team regarding this application, which is supported by a Biodiversity Net Gain (BNG) assessment and Great Crested Newt (GCN) survey report. The BNG assessment demonstrates that landscaping measures such as native tree and hedge planting, creation of wildflower areas and creation of a pond could deliver a 16% uplift in biodiversity units and an 82% increase in hedgerow units. The proposals are therefore comfortably compliant with policy.”* The response then provided advice about ensuring that a landscaping plan is combined with the relevant guidance from the BNG report. The Agent is seeking the inclusion of a landscaping condition, to provide this in due course. The response also confirmed *“Surveys have identified Great Crested Newts in nearby ponds... a Natural England Protected Species mitigation licence will be required.... Our advice is that there is unlikely to be any significant risk to the long-term survival of local GCN populations, so the proposed development is compatible with the 'favourable conservation status' test set out in the Conservation of Habitats & Species Regulations 2017.”*
- 7.5. **Environmental Health:** No objection - Advice provided on caravan licence, the concerns raised locally over water pollution, and noise from occupiers of the Shepherd's huts. In relation to noise, it was concluded *“I am not of the opinion that this will be an issue.”* However advice was provided in relation to limiting noise which formed the basis for the submitted Noise and Amenity Management Plan. Confirmation was provided on the proposed lighting where it was noted *“I do not feel that the lighting scheme would cause a statutory nuisance.”*
- 7.6. **Housing:** No objection – Requests informative for Applicant to contact the Council as a caravan site licence may be necessary.

- 7.7. **Howardian Hills AONB Manager:** Comments on original scheme (no specific objection but some areas of concerns and proposed conditions suggested in relation to noise reporting, no hot tubs/fires/bbqs, ensuring visitors park within the site, lighting should be minimal, pond design, boundary planting and delivery of biodiversity commitments) No comments on amended scheme.
- 7.8. **Local Highway Authority:** No objection, recommend condition to secure parking.
- 7.9. **Yorkshire Water.** No objection, recommend condition and informative.

#### Local Representations

- 7.10. 17 local representations have been received in total, including 11 letters of objection from the occupiers of 7 properties and 6 letters of support from the occupiers of 5 properties and one supplier of the business Coffeecare, together with one neutral response.
- 7.11. Following the full readvertisement of the amended scheme, of the responses outlined above, 2 additional letters of objection were received confirming the scheme did not address their original concerns, together with the letter of support from Coffeecare.
- 7.12. Support
- Rural pub is at the heart of the community and if this small scale development assists the public in continuing to be successful then it's only a good thing. The pub is valued.
  - Wildlife and nature have been considered and are being actively increased.
  - Plans appear carefully considered and being part of the village, they presumably have no desire to do anything detrimental
  - Businesses need to change and most of the other pubs in the Provenance Inn group have accommodation.
  - The Shepherds huts appear to be of a high standard and would hope that is there is any undue noise late at night this is addressed appropriately at the time.
  - As a community, we need the pub to succeed and this will help to keep the pub open in the current climate when so many others are closing.
  - Wanted to move to a village with a pub and haven't found it to be noisy
  - Beneficial to Welburn and Neighbouring villages, Not only for other local businesses and our local tourism but also by creating employment for locals
  - Regular visitor to the Crown and Cushion, feel the proposal would be a benefit to the area. A wide range of accommodation is essential to suit everyone's budget and requirements.
  - The location would not be of detriment to the look of the village as the area is not visible from the road.
  - The type of people using Shepherds huts will be suitable for village life, should not cause any noise issues.
  - We (Coffeecare) would like to write in support of the planning application as a local family-run business provider of goods and services that works in partnership with the Provenance Group... Further guests would allow the property to amend it's opening hours, serving more products to the local community, increase employment and

ensure that this community asset at the heart of the village remains viable for the future providing a place for local groups to meet and increasing tourism to the area.

One of the supportive responses (Occupier of Tannery Cottage sought clarification on certain aspects:

*“It would be helpful if actions were taken to avoid excessive noise, such as no outdoor entertaining or gathering after 10PM.*

*To avoid any additional disturbance to neighbours could there be a ban on outside cooking and barbeques?*

*Further assurance around the amount of light pollution caused by this development would be helpful.*

*Welburn is a naturally dark village and additional unchecked lighting would be a cause for concern. I would also be keen to see a condition that users of the Shepherd Huts had to park in the parking spaces provided and not cause additional and unwanted on street parking. Finally I assume all the concerns regarding wildlife and in particular Great Crested Newts will be taken into account when deciding this application. Overall I can see the benefits of this application but have some reservations as highlighted above. Provided these issues are mitigated then I would support the application.”*

#### Objections

- Siting of huts is behind the building line of the linear village, planning applications behind the building line have been refused for good reason in the past.
- Could be resited in a field or wood in a countryside setting
- No public consultation on the scheme
- The submission in answer to the relevant polices requirements falls short
- The pub is viable, employing 20, majority part time students, this would increase staff by 4, 3 part time. Hardly a significant increase to the rural economy.
- Tourism is thriving in the village – enough places to stay in and around Welburn and this will affect bookings to privately owned cottages which are not part of a chain.
- Doesn't expand community facilities, only beneficiaries are pub and café locally.
- With up to 16 adults in what is currently empty pasture land , possibility of socialising between groups and detrimental to the quiet rural nature of the village
- Concern over noise from ev charging points, boilers, car usage, sound from within units will resonate loudly due to topography, no noise assessment carried out
- Public garden and patio area is set back, so sound is muted, the car park is less sheltered and can be extremely noisy, generally for a short durations. The huts only serve as a profit making enterprise for the pub not the community, would create constant noise day and night with people outdoors most of the time, children, dogs and socialising. Will there be a warden on site
- Concern over light pollution, unhappy with existing flood lighting at the site, it is a dark sky village
- Material loss of privacy at the end of our garden (3 temperance court) where we have had a summerhouse for over a decade
- Consultation should be carried out to ensure secured by design principles are met.
- A detailed construction management plan should be submitted

- Concern over on street parking on main street, obstructing access from driveways and creating issues, problem greatest outside pub,
- Speed of traffic in the village, further cars and additional journeys would exacerbate
- Traffic and highways assessments should be carried out.
- AONB purpose is to protect the countryside and views and prevent unacceptable development, Shepherds huts generally were single units in isolated areas.
- Concern over impact upon wildlife/wildlife corridor, presence of otters, newts and great crested newts noted, requirement for BNG and a landscape management strategy, the boggy ground supports many species, any interference will no doubt
- Full preliminary ecological assessment and survey on site is needed to determine viability and An LVIA should be submitted.
- Site will be visible to walkers using the bridleway/footpath
- Has toxic run off been assessed. Concern over inadequate village sewerage
- Scale of units akin to large caravans (comments on original scheme) and Shepherds huts traditionally are moveable. No reference for maintenance of site/huts
- The setting of a conservation area and a significant number of listed buildings nearby
- Visual intrusion, noise, light and increase in vehicular traffic would change the character and appearance of the area and would result in harm to the conservation area which would be neither preserved nor enhanced.
- No renewable energy provided or carbon neutral construction methods, in direct violation of council policy following declaration of climate emergency
- Concern over precedent.
- Fire Risk

Neutral:

The following neutral response was received from the occupier of Pear Tree House:  
*"We live next door to the pub and support its ongoing viability as a village amenity. We have some concern over additional noise that may result from this development - the current business of the pub only occasionally impacts us and is limited in duration - we have concern that 24 hour occupation by residents of this development may increase the impact and duration of any noise issues. Visually providing the current boundary and hedge features are kept intact this should be minimal to us , we currently have no direct view of the development site and it is well screened by existing trees and shrubs."*

## **8.0 Environment Impact Assessment (EIA)**

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

## **9.0 Main Issues**

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

- Principle of development
- Form, Character and Impact upon the AONB.
- Impact upon the setting of the Conservation Area and the Grade II Listed Buildings

- Access, Highway Safety and Parking
- Noise, Amenity and Lighting
- Ecology
- Other Matters

## **10.0 ASSESSMENT**

### Principle of Development

- 10.1. Policy SP1 (General Location of Development and Settlement Hierarchy) notes that in all other villages, hamlets and in the open countryside development will be restricted to *that 'which is necessary to support a sustainable, vibrant and healthy rural economy and communities.'*
- 10.2. Within the adopted Ryedale Plan, Local Plan Strategy, land outside Development limits is identified as 'Wider Open Countryside.' Policy SP8 Tourism supports the principle of new *"touring caravan and camping sites and static caravan and chalet self-catering accommodation"* in the Wider Open Countryside where they can be *"accommodated without an unacceptable visual intrusion and impact upon the character of the locality."*
- 10.3. The potential effect of this proposal on the character of the locality will be considered in the relevant sections below. Policy SP8 also acknowledges the potential benefits that well designed tourism facilities can make to the economic wellbeing of the area
- 10.4. The National Planning Policy Framework notes in Paragraph 84(c) that planning policies and decisions should enable *"sustainable rural tourism and leisure developments which respect the character of the countryside."*
- 10.5. The scheme for the works within the paddock, the bike shed and extension to the existing utility area is therefore is considered acceptable in principle, subject to the imposition of the time limited occupancy conditions for new holiday accommodation detailed within Policy SP21 Occupancy Restrictions in the Ryedale Plan, Local Plan Strategy. A further condition to tie these new holiday units to the ownership of the Crown and Cushion Public House will also be recommended to ensure appropriate amenity is secured in perpetuity.
- 10.6. The principle of the EV charging points within a community facility such as this is also considered to align with Policy SP18 (Renewable and Low Carbon Energy) of the Ryedale Plan, Local Plan Strategy. This will however be subject to full assessment that they would not adversely impact the AONB, character of the Conservation Area and setting of the Grade II Listed Building.
- 10.7. It is therefore considered that subject to full consideration of the other sections below this proposal for a modestly scaled tourism site and other associated development in this location is broadly acceptable in principle and in accordance with Policies SP1 and SP8 of the Ryedale Plan, Local Plan Strategy.

### Form, Character and Impact upon the AONB.

- 10.8. Policy SP13 Landscapes of the Ryedale Plan, Local Plan Strategy notes *“The quality, character and value of Ryedale’s diverse landscapes will be protected and enhanced by ... Protecting the special qualities, scenic and natural beauty of the Howardian Hills Area of Outstanding Natural Beauty (and) the setting of the Area of Outstanding Natural Beauty.”* It also notes: *“Development proposals should contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:*
- *The distribution and form of settlements and buildings in their landscape setting*
  - *The character of individual settlements, including building styles and materials*
  - *The pattern and presence of distinctive landscape features and natural elements (including field boundaries, woodland, habitat types, landforms, topography and watercourses)*
  - *Visually sensitive skylines, hill and valley sides*
  - *The ambience of the area, including nocturnal character, level and type of activity and tranquillity, sense of enclosure/exposure*
- 10.9. The NPPF notes in Paragraph 176 that *“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.”*
- 10.10. SP16 Design of the Ryedale Plan, Local Plan Strategy notes: *“Development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which “Reinforce local distinctiveness and... Protect amenity and promote well-being.”*

*To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings including:*

- *The character and appearance of open space and green spaces*
  - *Views, vistas and skylines*
  - *Appropriate materials, quality and type of building techniques and elements of architectural detail.*
  - *Topography and landforms that shape the form and structure of settlements in the landscape*
- 10.11. Policy SP20: Generic Development Management Issues of the Ryedale Plan, Local Plan Strategy notes:
- *New development will respect the character and context of the immediate locality and the wider landscape/townscape character in terms of physical features and the type and variety of existing uses*
  - *Proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses*

- 10.12. The site is located within the open countryside, and as noted, within the Howardian Hills Area of Outstanding Natural Beauty (AONB.) The consultation response from the AONB Officer on the original scheme is available to view on the planning file.
- 10.13. However, as outlined above, the scheme has since been amended, with a reduction of the number of units from 8 to 6, the provision of only the more modestly scaled units, and their repositioning to take better advantage of existing landscape, facilitating the retention of a greater level of undeveloped paddock. This now includes the omission of the hardsurfaced outdoor amenity areas adjoining the units and the benches to facilitate the 'nature viewing area' originally indicated. The scheme also now includes more significantly more landscaping.
- 10.14. Within their original response, the AONB Manager made comments in relation to the scheme including "*The proposal does not appear to have a significant impact on visual amenity as it is generally well screened by existing boundary hedges and trees and by the topography and landform of the site and the surrounding land. However, boundary hedges could be improved to ensure privacy, and particularly on the eastern side to ensure the screening is complete when viewed from the public right of way.*" The site plan confirms in an annotation along the eastern boundary "*Existing hedging to be retained, relayed where gaps feature. Native species shown on landscaping plan.*" The Agent has agreed that the provision of a full landscaping plan should be submitted. This will be controlled by condition and an informative will highlight the requirements for a detailed assessment of the eastern boundary hedgerow planting, which should be of a native species.
- 10.15. Other advice provided by the AONB Manager has also been addressed, in terms of delivering a low key, light touch lighting scheme. As noted above the lighting scheme involves limited use of 7 strategically placed low level downlight bollard, with each unit would have a single small external light fitting. The four units located in closest to the village would have these positioned on the sides facing away from the neighbouring properties. This is considered acceptable and will prevent inappropriate illumination of the site. This would be secured by a compliance condition, with the requirement that any amendments to this would require the permission of the Local Planning Authority.
- 10.16. The AONB Manager's advice on conditioning guests parking on site, preventing hot tubs, fires and BBQS, as well as strict noise requirements and a methodology for report noise has been captured within the Noise and Amenity Management Plan (NAMP) which can be conditioned for compliance. These elements will be reviewed further in the amenity section but the NAMP would provide an appropriate level of control on these matters and other elements.
- 10.17. The point made by the AONB Manager, in relation to securing the delivery of the biodiversity commitments indicated within the application is noted, together with their comments on securing an appropriate pond depth and design. The amended plans, reviewed by the Ecologist contain a cross section of the pond, with the annotation "*shallow banks to provide habitat for invertebrates/wildlife, water plants to perimeter.*" The Ecologist reviewed this and made no comments, so it is considered they believe this to be acceptable.

- 10.18. It is considered that with the infill planting up along the eastern boundary and the additionally proposed site wide landscaping to be secured by condition, together with the low level of lighting, that only limited views from the public right of way to the east of the site could be realised. It is not therefore not considered that this scheme would adversely or materially affect the present character of the site from wider public views.
- 10.19. It is considered that the scale, form, materials and design of the reduced number of Shepherd Hut units, together with the low key nature of the associated hard landscaping and additional car parking will result in a scheme that can effectively assimilate in this location, without material harm to the wider character of the area and the special value of the AONB. This is concluded given the context of the existing landscaping, the site topography, the proposed additional landscaping and sensitive lighting scheme, which are elements that would be secured by condition. This is therefore considered to be in accordance with Policies SP13, SP16 and SP20 of the Ryedale Plan, Local Plan Strategy.

#### Impact upon the Setting of the Conservation Area and Grade II Listed Buildings

- 10.20. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 confirms in considering whether to grant planning permission for development which affects a Listed Building or its setting, the decision maker shall have *“special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*
- 10.21. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.
- 10.22. As noted, the Crown and Cushion is a Grade II Listed Building and the public house and the majority of the existing car park is located within the Welburn Conservation Area.
- 10.23. The proposed Shepherds Huts and surrounding landscaping, together with the additional car parking and northern extension to the utilities compound would be sited at their nearest part, c48m to the north of the nearest part of the Listed Building. The bike shed would be located in the existing car park, c42m to the north of the nearest part of the listed building. This is considered to be a significant distance but full consideration of the potential effect on the setting of the Grade II Listed Building will be undertaken.
- 10.24. All of these elements outlined in the paragraph above would be undertaken outside of the Conservation Area, however full consideration will be given to the effect on their setting of this heritage asset.

- 10.25. The proposed EV Charging points would be positioned directly to the north of the most northerly section of the listed building, which is a more functional area that could not be seen from public vantage points.
- 10.26. Following initial comments from the Council's Senior Conservation Officer in April 2023, a Heritage Statement was submitted in May 2023 (Humble Heritage) considering the heritage planning context, the heritage assets and their significance, together with the heritage impact of the proposed development. This is available to view on the planning file.
- 10.27. This concludes *"This Heritage Statement concludes that the proposed development sensitively responds to the surrounding historic and landscape context while resulting in a series of social, economic and environmental public benefits. The modest scale, traditional and harmonious materials and design, landscaping enhancements, discreet location, buffer between the site and listed building, reversibility etc all serve to preserve the significance that the Crown and Cushion derives from its setting and also preserves the special character and appearance of the conservation area...The proposal will not cause any harm to any heritage asset and will result in a series of public benefits."*
- 10.28. The Council's Senior Conservation Officer visited the site and in a response dated 11<sup>th</sup> July 2023 on the original scheme for 8no. units. This concludes *"In my opinion this application affects the setting of the conservation area.... In my opinion the degree of harm to the conservation area is on the mid range of less than substantial due to the nature of change from an undeveloped rural grassed area to the presence of structures, lighting and increased activity. The presence of the PROW raises the level of harm. According to the NPPF where harm to heritage assets has been identified, those identified harms should be balanced by the public benefits of a proposal. In my opinion there are no identified heritage benefits associated with this development."*
- 10.29. The scheme was amended as outlined above and readvertisement was undertaken. In a response dated 8<sup>th</sup> August 2023 noted *"Further to my objection in principle regarding the development of the land due to its harmful impact on the conservation area, the application has been revised from 8 units to 6 units with a reduction in car parking, lighting etc. My objection in principle is still maintained, however in my opinion the level of identified harm has been reduced to a low-mid range of less than substantial. According to paragraph 202 of the NPPF 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*
- 10.30. An administrative issue meant that the Building Conservation Officer provided this response before seeing a letter from the Agent (dated 23<sup>rd</sup> July 2023) which provided further discussion on the amended scheme and a response to the Building Conservation Officer's comments. For the avoidance of doubt, this was then shared with the Building Conservation Officer who confirmed in an email dated 26<sup>th</sup> September *"Thank you for drawing the letter to my attention. I have read it and some*

*of the points are helpful regarding the lighting and removal of larger units. It does not however change my previous response and I have nothing further to add.”*

- 10.31. The Building Conservation Officer has identified the now reduced low-mid range of less than substantial harm associated with the setting of the Conservation Area and maintains an objection in principle. This identified harm needs to be weighed against the public benefit in the planning balance.
- 10.32. It is noted that this scheme will allow for tourist accommodation associated with the Crown and Cushion public house, where currently there is no accommodation available. Public Houses are considered to be community facilities in the Ryedale Plan, Local Plan Strategy (SP11) and contribute to the vitality of towns and villages and the well being of local communities. It is well documented that the hospitality sector is facing challenges nationally, a point which is made in paragraph 5.2 of the Design and Access Statement and in paragraphs 26 and 27 of the letter dated 11<sup>th</sup> July 2023. Such a scheme would undoubtedly help to diversify and sustain the public house now and in the future. This is considered to be an important public benefit and on balance, it is considered that this would outweigh the identified low-mid level of less than substantial harm to the setting of the Conservation Area. The amendments made to create a more sensitive, low key scheme are also acknowledged.
- 10.33. In the balancing exercise undertaken above, it is considered that Officers have fulfilled the requirement set out by Paragraph 201 of the NPPF where it noted “*Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.*”
- 10.34. It is also considered that this scheme would preserve the character and setting of the Grade II Listed Public House and other nearby Listed Buildings. This would however be subject to a condition to secure full details of the proposed 2no. EV charging points, including level of illumination.

#### Access, Highway Safety and Parking

- 10.35. As noted, the scheme would introduce 6no. additional parking spaces to serve the reduced 6no unit scheme, together with a bike shed with capacity to securely store 8no. bikes.
- 10.36. The Highways Officer noted in their consultation response dated 24<sup>th</sup> March 2023 “*The plans as submitted show adequate parking facilities and the existing vehicular access offers sufficient visibility for access and egress to and from the site Therefore the Local Highway Authority offers no objections save for a condition being appended to any approvals granted to secure parking for the proposals.*” No response was received in relation to the updated scheme for 6no. units
- 10.37. Subject to the recommended conditions, in terms of transport, parking and highway safety this scheme is considered to meet the requirements contained within Policies SP16 (Design) and SP20 (General Development Management Issues) contained within the Adopted Local Plan, the Ryedale Plan Local Plan Strategy (2013). It is also

considered that the scheme is in compliance with the requirements of the National Planning Policy Framework.

### Noise, Amenity and Lighting

10.38. Policy SP20 Generic Development Management Issues of the Ryedale Plan, Local Plan Strategy notes:

- *New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence*
- *Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise*

10.39. Paragraph 185 of the NPPF notes “*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*  
*a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life65;*  
*b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*  
*c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*

10.40. As noted, the site is located within a central point in the village, with the pub and car park closely surrounded by neighbouring properties to the east and west, as well as the south to the other side of the highway.

10.41. The Council’s Environmental Health Officers were consulted in relation to the scheme. In their formal response dated 21<sup>st</sup> April, they confirmed the following:

*“ I am aware that some residents/parish council have some concerns regarding water pollution and statutory nuisance.*

*I have discounted the concerns regarding water pollution because you have consulted with Yorkshire Water, the statutory undertaker, and providing the scheme meets their requirements, I have no concerns to object. Any complaints about watercourse pollution should be made to the Environment Agency, the relevant enforcement agency.*

*Concerns regarding noise from occupiers of the Shepherd's huts, I am not of the opinion that this will be an issue; however, to reduce the likelihood of noise being generated from the outside seating areas, could a condition be put on the consent, if granted along the following lines:*

- *No outdoor fires, including firepits.*
- *No outdoor cooking, including BBQ.*
- *No hot hubs*
- *No use of the seating area after 11 pm.*

*The other major concern appears to be light nuisance; we have not received any complaints about light pollution from the Public House or carpark.*

*The lights detailed on the proposed site layout plan 13/03/23 show a small bulkhead fitting to fitted to outside of the huts of 1000 lumens, the post lights are 638 lumens the lights are not directed over existing properties, I do not feel that the lighting scheme would cause a statutory nuisance.”*

10.42. The points raised by the EHO were very helpful and mirrored the points raised by the AONB Manager. Whilst no specific concerns were raised by the EHO, it was considered appropriate to seek the submission of a comprehensive Noise Management Plan for the site. This document was submitted on the 29<sup>th</sup> September 2023. This can be read in full on the Planning file but mitigation measures include the following:

- Guests will not be permitted outdoor fires, firepits, fireworks, additional lighting, BBQs, or hot tubs.
- Guests will be directed to use only the parking spaces allocated for their hut.
- Guests will be informed that no amplified or non-amplified music is permitted after 9pm, with any music prior to that time be limited to a ‘low level’ to avoid disturbance for neighbouring residents.
- Guests will not be permitted to fly flags, drones or operate private generators.
- Guests will be provided with the name and contact details of the pub’s General Manager who will be living locally at Coneysthorpe, approximately a 6 minute drive away from site.
- Guests will be directed to dispose of all litter/ waste and recycling in clearly identified waste bins within the main car park.

- Further detail on communications with neighbouring residents and responsible staff members area provided, together with parking, waste, provision of rules within the welcome pack for guests.

10.43. Consequently, if this were to be recommended for approval, a condition would be sought for compliance with the Noise and Amenity Management Plan, with a requirement for its review annually or at the request of the LPA. A further condition to tie these new holiday units to the ownership of the Crown and Cushion Public House will also be recommended to ensure appropriate amenity can be secured in perpetuity.

10.44. It is also noted that concern has been raised by the occupier of 3 Temperence Court who have identified their summerhouse in the adjoining paddock to the west, which is sited along the northern boundary. It is noted that this is at a very significant distance from the rear of their property (at least 100m) and it is not clear if this forms part of their defined domestic curtilage in planning terms. However, given the distance from what would normally be considered their private rear amenity space, it is not considered that the siting of the huts and the proposed change of use would result in material harm to amenity. Furthermore, there is significant landscaping under their control at this point along the boundary, which will be supplemented by further landscaping. The amendment of the positioning of the units will also increase the distance of future holidaymakers from this summerhouse.

10.45. It is therefore considered that this scheme is acceptable in terms of amenity, in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy and the NPPF.

### Ecology

10.46. The submission is supported by a Great Crested New Survey Report (Quants Environmental June 2022) and a Biodiversity Net Gain Assessment (Quants Environmental February 2023.)

10.47. In their original consultation response dated 13<sup>th</sup> March 2023, the Council's Ecologist noted:

*Thank you for consulting the NYCC ecology team regarding this application, which is supported by a Biodiversity Net Gain (BNG) assessment and Great Crested Newt (GCN) survey report. The BNG assessment demonstrates that landscaping measures such as native tree and hedge planting, creation of wildflower areas and creation of a pond could deliver a 16% uplift in biodiversity units and an 82% increase in hedgerow units. The proposals are therefore comfortably compliant with policy.*

*There is a need to ensure that the Landscaping Plan reflects the measures set out in the BNG report. I notice, for example, that the Landscaping Plan differs from the BNG report in listing ornamental non-native species for pond planting. Once this has been done, I suggest the Landscaping Plan is combined with relevant guidance from the BNG report on establishing, maintaining and monitoring habitats. This should not be onerous as section 5 of the BNG report already contains most of the relevant information. This can be referred to as a Biodiversity Management and Monitoring Plan (or similar) and could be submitted for approval by Condition.*

*Surveys have identified Great Crested Newts (GCNs) in nearby ponds. The applicant's ecologist has concluded that there is a "moderate/high" risk to GCNs in terrestrial habitats and that a Natural England protected species mitigation licence will be required to exclude and remove newts during construction. Mitigation measures are set out in section 4.2.7 of the GCN survey report. The site is within an Amber risk zone for GCNs, so the applicant may wish to consider District Level Licensing as an alternative approach (Great crested newts: district level licensing schemes for developers and ecologists - GOV.UK ([www.gov.uk](http://www.gov.uk))). The applicant should weigh up the relative cost and delays involved.*

*Our advice is that there is unlikely to be any significant risk to the long-term survival of local GCN populations, so the proposed development is compatible with the 'favourable conservation status' test set out in the Conservation of Habitats & Species Regulations 2017.*

- 10.48. The Ecologist was reconsulted on the amended plans and noted in a response dated 26<sup>th</sup> July 2023 *"Our previous advice stands but the Biodiversity Net Gain calculation will need to be repeated for the amended plans to demonstrate whether the proposals still meet BNG requirements."* The Agent was asked to provide this, but made in an email dated 29<sup>th</sup> Re: the recalculation of the BNG this seems excessive given the original report was based on less planting/ more hardstanding and the ecologist previously stated: *"a 16% uplift in biodiversity units and an 82% increase in hedgerow units. The proposals are therefore comfortably compliant with policy."* The Ecologist responded to note on the 27<sup>th</sup> September *"I suspect when mandatory BNG rules come into force ... they would have to submit a revised calculation; under present circumstances we can exercise discretion and I'm happy with this based on the fact that there's more greenery not less."*
- 10.49. It is therefore considered that subject to a condition to secure a landscaping scheme (with an informative that this should align with the calculations in the submitted BNG report) and a separate condition to secure a Biodiversity Management Plan, together with an appropriate informative in relation to Great Crested Newts that this scheme would align with the requirements of Policy SP14 of the Ryedale Plan, Local Plan Strategy and the National Planning Policy Framework.

#### Other Matters

- 10.50. The proposed units will connect to the existing Yorkshire Water sewers which is the most sustainable method of foul water disposal, with surface water drainage collecting in the proposed pond, then entering into the existing watercourse, which is a tributary of Cram Beck.
- 10.51. As noted, Yorkshire Water confirmed they had no objections subject to a condition to secure compliance with the Drainage Scheme and including a relevant informative. A condition will also be included to ensure Foul Water and Surface Water connections are made to the satisfaction of an approved Building Control Inspector. Full adherence to separate Building Control Regulations will however remain the responsibility of the Developer.
- 10.52. Whilst concerns have been raised locally about issues with the village foul water system, given Yorkshire Water as the statutory undertaker have no objections, it is

considered that subject to condition, this scheme includes an appropriate method for the management of surface water and foul water in accordance with the requirements of Policy SP14 of the Ryedale Plan, Local Plan Strategy and the National Planning Policy Framework

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. This application has been recommended for approval as it is considered to meet with the requirements of the Ryedale Plan, Local Plan Strategy and the National Planning Policy Framework.
- 11.2. This proposed scheme, which includes the creation of tourism accommodation to the rear of the Crown and Cushion pub in Welburn is considered to be acceptable in principle within this location, which falls within the designated 'Wider Open Countryside under the Ryedale Plan, Local Plan Strategy. Subject to the amendments made and the relevant recommended conditions, it is considered to align with the requirements of the following policies within the Ryedale Plan, Local Plan Strategy: Policy SP1 (General Location of Development and Settlement Hierarchy) Policy SP8 (Tourism) Policy SP13 (Landscapes) SP14 (Biodiversity) SP16 (Design) SP17 (Managing Air, Land and Water Resources) SP20 (Generic Development Management Issues and Policy SP21 (Occupancy Restrictions, together with the National Planning Policy Framework (NPPF.)
- 11.3. It is also considered that this scheme would not relate to harm to the character or setting of the Grade II Listed Public House, nor other nearby Listed Buildings.
- 11.4. It has however been identified by the Council's Building Conservation Officer that the scheme would result in a low-mid level of identified harm to the setting of the Welburn Conservation Area. This identified harm has been balanced against the public benefit of the scheme supporting and sustaining the public house, which is an important community asset in Welburn. It is considered that this, together with the sensitively designed scheme, that has been reduced in scale would outweigh this identified harm. It is therefore considered that Officers have undertaken the 'balancing exercise appropriately, as outlined within Paragraph 201 of the NPPF.
- 11.5. The scheme, which includes sufficient additional car parking spaces and secure cycle parking is considered acceptable by the Case Officer and the Highways Officer.
- 11.6. The application is also considered to be suitable in terms of ecology, drainage and landscaping subject to the relevant conditions. It is not considered that this would result in adverse effects on the Howardian Hills Area of Outstanding Natural Beauty given the careful considering to the scale and design of the scheme and amendments secured.
- 11.7. The Environmental Health Officer has reviewed the scheme and raises no concerns in relation to amenity or noise, however notwithstanding this the Agent has provided a Noise and Amenity Management Plan, which will be conditioned to secure a good

level of future amenity for surrounding residents. The ownership of the proposed Shepherd huts will also be conditioned to remain under the ownership of the public house.

## **12.0 RECOMMENDATION**

12.1 That planning permission be GRANTED subject to conditions listed below

### **Recommended conditions:**

#### **Condition 1 Time Limit**

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

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

#### **Condition 2 Approved Plans**

The development hereby permitted shall be carried out in accordance with the following approved documents/plan(s):

Site Location Plan (Land Registry – no Drawing number.)

Proposed Site Plan (Drawing no. 02 Rev H)

Proposed Guest & Chalet Hut Layout (Drawing no. 03 Rev C)

Proposed Drainage Layout and Strategy (Drawing. D01 Rev B)

Utility Area Details (Drawing no. D06 Rev A)

Bike Shed Details (Drawing no. 05)

Reason: For the avoidance of doubt and in the interests of proper planning.

#### **Condition 3 – Ownership**

The 6no. Shepherd Huts hereby approved shall remain in the same ownership as the property currently known as the Crown and Cushion Public House, Welburn.

Reason: In the interests of the amenity of existing and future occupiers and to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

#### **Condition 4 – Holiday 1**

The accommodation hereby permitted shall be occupied for holiday purposes only; and not as a person's sole or main place of residence.

Reason: To comply with the requirements of Policy SP8 and SP21 of the Ryedale Local Plan Strategy.

#### **Condition 5 – Holiday 2**

The accommodation hereby permitted shall be available for commercial holiday lets for a least 140 days a year and shall only be used for holiday letting to the same person, groups of persons or families for period(s) not exceeding a total of 31 days

in any one calendar year. The accommodation shall not be used as the sole, or main residence of any occupant.

Reason:- The site is located in an area where policy does not support permanent residential accommodation, and to satisfy the requirements of the National Planning Policy Framework and Policies SP8 and SP21 of the Ryedale Plan - Local Plan Strategy.

### **Condition 6 - Holiday 3**

The owners shall maintain an up-to-date register of lettings/occupation and advertising will be maintained at all times and shall be made available for inspection to an officer of the Local Planning Authority on request.

Reason:- In order to ensure that the holiday accommodation is not used for unauthorised permanent occupation, and to comply with Policy SP2 of the Ryedale Plan - Local Plan Strategy

### **Condition 7: Soft landscaping**

Prior to the commencement of the external works of the development hereby approved, unless otherwise agreed in writing with the Local Planning Authority, plans showing details of a landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of any trees/shrubs and show any areas to be grass seeded or turfed. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Informatives:

- This should align with the details submitted in the proposed Biodiversity Enhancement and Management Plan and relevant guidance from the Biodiversity Net Gain Assessment (Quants Environmental February 2023) on establishing, maintaining and monitoring habitats.
- The details required to satisfy the landscaping condition will require careful consideration, particularly in terms of the eastern boundary of the site, which is shall require infilling with native species. Future plans should show the precise level of boundary planting to be installed.

Reason: To enhance the appearance of the development hereby approved Policy in accordance with Policies SP14, 16 and SP20 of the Ryedale Plan - Local Plan Strategy

### **Condition 8: Lighting**

The external lighting hereby approved shall be limited to the details submitted to the LPA within the Proposed Site Plan (Drawing no. 02 Rev H.) All lighting shall be

installed and maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.  
Reason: To protect the character of the area in accordance with SP13 and SP20 of the Local Plan Strategy.

**Condition 9: Biodiversity plan**

The development hereby approved shall not be brought into use until a biodiversity enhancement and management plan to provide net gains for biodiversity at the site has been agreed in writing by the Local Planning Authority, and the agreed measures have been implemented. The agreed biodiversity enhancement measures shall be permanently retained and maintained in accordance with the approved management plan.

Informative: This should be based upon Section 5 of the submitted *Biodiversity Net Gain Assessment (Quants Environmental February 2023)* and be accord with the details submitted in the proposed landscaping plan.

Reason: To ensure the development provides net gains for biodiversity in accordance with paragraph 174 of the National Planning Policy Framework and Policy SP14 of the Ryedale Local Plan Strategy

**Condition 10: Noise – Noise Management Plan**

The development hereby approved shall be operated in accordance with the approved Noise and Amenity Management Plan produced by DEB Town Planning and Development Ltd.

This Plan shall be reviewed after a year from the date of this planning permission (or earlier at the request of the Local Planning Authority, following receipt by either the Local Authority or the venue of a verified and justified complaint(s)), to ensure that measures to limit noise and other disturbance are maintained.

Reason: To prevent harm to neighbouring amenity in accordance with Policy SP20 Generic Development Management Issues of the Ryedale Plan, Local Plan Strategy.

**Condition 11: Yorkshire Water**

The development shall be carried out in accordance with the details shown on the submitted, Proposed Drainage Layout & Strategy 011 D01 (amendment B) dated August 2023 prepared by W A Design Consultants, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage and to satisfy the requirements of Policy SP17 of the Ryedale Plan - Local Plan Strategy.

**Condition 12: Foul Water Surface Water**

Unless otherwise agreed in writing with the Local Planning Authority, prior to the occupation of the Shepherds huts hereby approved, the provision of surface and foul water discharges must be completed to the satisfaction of an approved Building Control Officer.

Reason: To ensure that no discharges take place until proper provision has been made for their disposal and to satisfy the requirements of Policies SP17 and SP19 of the Ryedale Plan - Local Plan Strategy.

### **Condition 13: Highways**

No unit must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

### **Condition 14: EV Charging points**

Unless otherwise agreed in writing with the Local Planning Authority, prior to their installation, details of the 2no. electric charging points must be submitted to and approved in writing by the Local Planning Authority.

Informative: It is recommended that these are modest in scale and if possible unilluminated.

Reason: To secure an appropriate external appearance given the proximity to a Grade II Listed Building in accordance with Policy SP12 of the Ryedale Plan - Local Plan Strategy

### **Informatives**

Informative 1: The Developer's attention is drawn to the guidance within the consultation response from Yorkshire Water dated 21<sup>st</sup> August 2023 in relation to sewer adoption.

Informative 2: It is noted the Developer should contact the Council's Housing Team to ascertain if a Caravan Site Licence will be necessary.

Informative: The Developer's attention is drawn to the guidance within the consultation response from Ecology dated 13<sup>th</sup> March 2023 in relation to the Developer's responsibility in terms of Great Crested Newts and a Natural England Protected Species Mitigation Licence.

**Target Determination Date:** 18.04.2023

**Case Officer:** Niamh Bonner, [niamh.bonner@northyorks.gov.uk](mailto:niamh.bonner@northyorks.gov.uk)

Appendix A – Proposed Layout Plan

