

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, 21 March, 2024

Time: 10.00 am

Venue: Ryedale House, Malton, YO17 7HH, YO17 7HH

Members of the public are entitled to attend this meeting as observers for all those items taken in open session. Please contact the named democratic services officer supporting this committee, details at the foot of the first page of the Agenda, if you have any queries.

The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: speaker representing the applicant, speaker representing the objectors, parish council representative and local Division councillor. Each speaker has a maximum of three minutes to put their case. If you wish to register to speak through this scheme, then please notify Nicki Lishman, Senior Democratic Services Officer by midday on Monday, 18 March 2024.

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If you are exercising your right to speak at this meeting but do not wish to be recorded, please inform the Chairman who will instruct anyone who may be taking a recording to cease while you speak.

Agenda

- 1. Apologies for absence**
- 2. Minutes for the meeting held on 15 February 2024** (Pages 5 - 8)
- 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. **ZE23/06398/FUL - Change of use of agricultural land to 12no. allotments and communal gardens with associated parking, gated internal access track, pavilion, 13no. greenhouses/polytunnels, 13no. sheds and 3no. storage containers** (Pages 9 - 32)
Report of the Assistant Director Planning – Community Development Services
5. **ZE23/06955/73- Application for the variation of condition 02 of planning approval 23/00077/73 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year on land at Dogh, Main Street, Welburn, Malton** (Pages 33 - 50)
Report of the Assistant Director Planning – Community Development Services
6. **23/00348/MFUL - application for the erection of 13no. dwellings comprising 7no. three bedroom dwellings, 2no. two bedroom dwellings and 4no. four bedroom dwellings with associated infrastructure, garaging, parking and landscaping on land off Aspen Way, Slingsby, Malton** (Pages 51 - 72)
Report of the Assistant Director Planning – Community Development Services
7. **ZE23/06814/MFUL - Application for the erection of 3 no. Drive Thru units, together with associated landscaping, boundary treatments, car parking, servicing, internal roads, access and associated works on land north of Edenhouse Avenue, Old Malton** (Pages 73 - 100)
Report of the Assistant Director Planning – Community Development Services
8. **22/00102/FUL - Change of use of land to a gypsy/traveller site with 4no family pitches each with 1no static caravan, 1no touring caravan pitch and parking spaces, erection 1no. amenity building and installation of 1no bio-disc treatment plant with associated parking and landscaping** (Pages 101 - 128)
Report of the Assistant Director Planning – Community Development Services
9. **ZE23/00437/FUL - Change of use of former agricultural building for use as a (small breeds) dog breeding kennel and domestic storage together with an extension to the building to provide toilets and external alterations including the installation of insulated acoustic sheeting to the exterior of the building (part retrospective) and the change of use of agricultural land to dog exercise area.** (Pages 129 - 142)
Report of the Assistant Director Planning – Community Development Services
10. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.
11. **Date of next meeting**
Thursday, 18 April 2024 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:

Nicki Lishman

Tel: 01653 638476 or mobile 07748 220146

Email: democraticservices.rye@northyorks.gov.uk

Wednesday, 13 March 2024

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North Yorkshire Council

Thirsk and Malton Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 15 February, 2024 commencing at 10.00 am.

Councillor Caroline Goodrick in the Chair, plus Councillors Joy Andrews, Alyson Baker, Lindsay Burr MBE, Sam Cross, Nigel Knapton and Malcolm Taylor.

Officers Present: Alpha Love-Koh, Ann Rawlinson, Nicki Lishman and Nathan Puckering.

Copies of all documents considered are in the Minute Book

66 Apologies for absence

There were no apologies for absence.

67 Minutes for the meeting held on 18 January 2024

The minutes of the meeting held on 18 January 2024 were confirmed and signed as an accurate record.

68 Declarations of Interests

There were no declarations of interest.

Planning Applications

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

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

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

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

69 23/00144/FUL - Construction of 3 dwellings and associated works at OS Field 1745, Back Lane, Tollerton, North Yorkshire

The Assistant Director Planning – Community Development Services sought determination of a planning application to determine an application for full planning permission for the construction of three dwellings at OS Field 1745, Back Lane, Tollerton.

This application was referred to the Planning Committee, following a referral by the Ward Member prior to Vesting Day.

Presenting the report, the officer referred to matters included in the report and the updates list including further consultee responses, amended conditions and further information regarding the ownership of the site and adjacent parcels of land.

William Marshall, representing the applicant, spoke in support of the application.

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

- The proposed permanent vehicular access to the site from Breckland Court
- The proposed temporary access to the site from Moorlands Lane
- The limited access to the site from single track Back Lane and Moorlands Lane
- The combined number of properties on Breckland Court and the application site and the lack of affordable housing

Councillor Taylor proposed and Councillor Knapton seconded that the application be REFUSED for the following reasons:

With reference to the Hambleton Local Plan

1. Policy HG2 seeks to address not only the overall housing requirements that have been identified, but also for specific types of housing by virtue of size, tenure and type that are required to meet the district's housing requirements in terms of affordability, adaptability and an aging population. The proposal is not considered to meet the requirements of Policy HG2 and does not reflect local need.
2. The proposal does not provide for affordable housing when taken together with the adjacent three dwelling site recently constructed, which utilises the same access point to provide for one overall wider development of six houses from the same access point, contrary to Policy HG3.
3. The incremental growth and amount of development in Tollerton is now starting to cumulatively impact the character, appearance and the form of the settlement, in conflict with Policy HG5.
4. The temporary construction access would compromise highway safety and accessibility owing to the width of the single track roads being inadequate, resulting in conflict between heavy construction vehicles and existing vehicular traffic, in conflict with Policy IC2.

DECISION

That planning permission be REFUSED for the following reasons:

With reference to the Hambleton Local Plan

1. Policy HG2 seeks to address not only the overall housing requirements that have been identified, but also for specific types of housing by virtue of size, tenure and

type that are required to meet the district's housing requirements in terms of affordability, adaptability and an aging population. The proposal is not considered to meet the requirements of Policy HG2 and does not reflect local need.

2. The proposal does not provide for affordable housing when taken together with the adjacent three dwelling site recently constructed, which utilises the same access point to provide for one overall wider development of six houses from the same access point, contrary to Policy HG3.
3. The incremental growth and amount of development in Tollerton is now starting to cumulatively impact the character, appearance and the form of the settlement, in conflict with Policy HG5.
4. The temporary construction access would compromise highway safety and accessibility owing to the width of the single track roads being inadequate, resulting in conflict between heavy construction vehicles and existing vehicular traffic, in conflict with Policy IC2.

Voting record

5 For refusal

2 Against refusal

70 ZB23/01987/REM - Application for approval of reserved matters following outline approval 20/00219/OUT for outline application for construction of 2 dwellings with access to be considered as per amended plans at land north of Mayfield and east of Orchard House, South Otterington, North Yorkshire

The Assistant Director Planning – Community Development sought determination of a planning application for approval of reserved matters (considering appearance, landscaping, layout and scale) following outline approval 20/00219/OUT for permission for the construction of 2 dwellings on land at Land North of Mayfield and East of Orchard House, South Otterington.

The application was appropriate for consideration by the Planning Committee due to a call-in by a member of the Council.

Presenting the report, the planning officer drew Members attention to the additional condition described in the updates list, which addressed the provision of access to the parcel of land in the centre of the wider site.

Richard Mowat, representing the applicant, spoke in support of the application.

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

- The design of the field gates
- The location of the access points into the wider site to accommodate future maintenance of this land and protected trees
- The protection of the trees and hedges during construction

DECISION

That planning permission be GRANTED subject to the conditions detailed in the Committee report and that resolution of the specific location(s) of the access point(s) into the wider parcel of land for maintenance purposes be delegated to officers to resolve satisfactorily, prior to the decision notice being issued.

Voting record

Unanimous

71 Any other items

There were no items of urgent business.

72 Date of next meeting

Thursday, 21 March 2024 at 10am.

The meeting closed at 12.05pm.

North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

21 MARCH 2024

ZE23/06398/FUL - CHANGE OF USE OF AGRICULTURAL LAND TO 12NO. ALLOTMENTS AND COMMUNAL GARDENS WITH ASSOCIATED PARKING, GATED INTERNAL ACCESS TRACK, PAVILION, 13NO. GREENHOUSES/POLYTUNNELS, 13NO. SHEDS AND 3NO. STORAGE CONTAINERS AT BOUNDALES FARM, BACK LANE, LEAVENING

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 agricultural land to a community space including allotments with associated paraphernalia on land at Boundales Farm, Back Lane, Leavening.
- 1.2 The application is reported to the Area Planning Committee for determination because the land subject of the application is under Council ownership and therefore, in line with the scheme of delegation, the application is considered to be submitted on behalf of the Council.

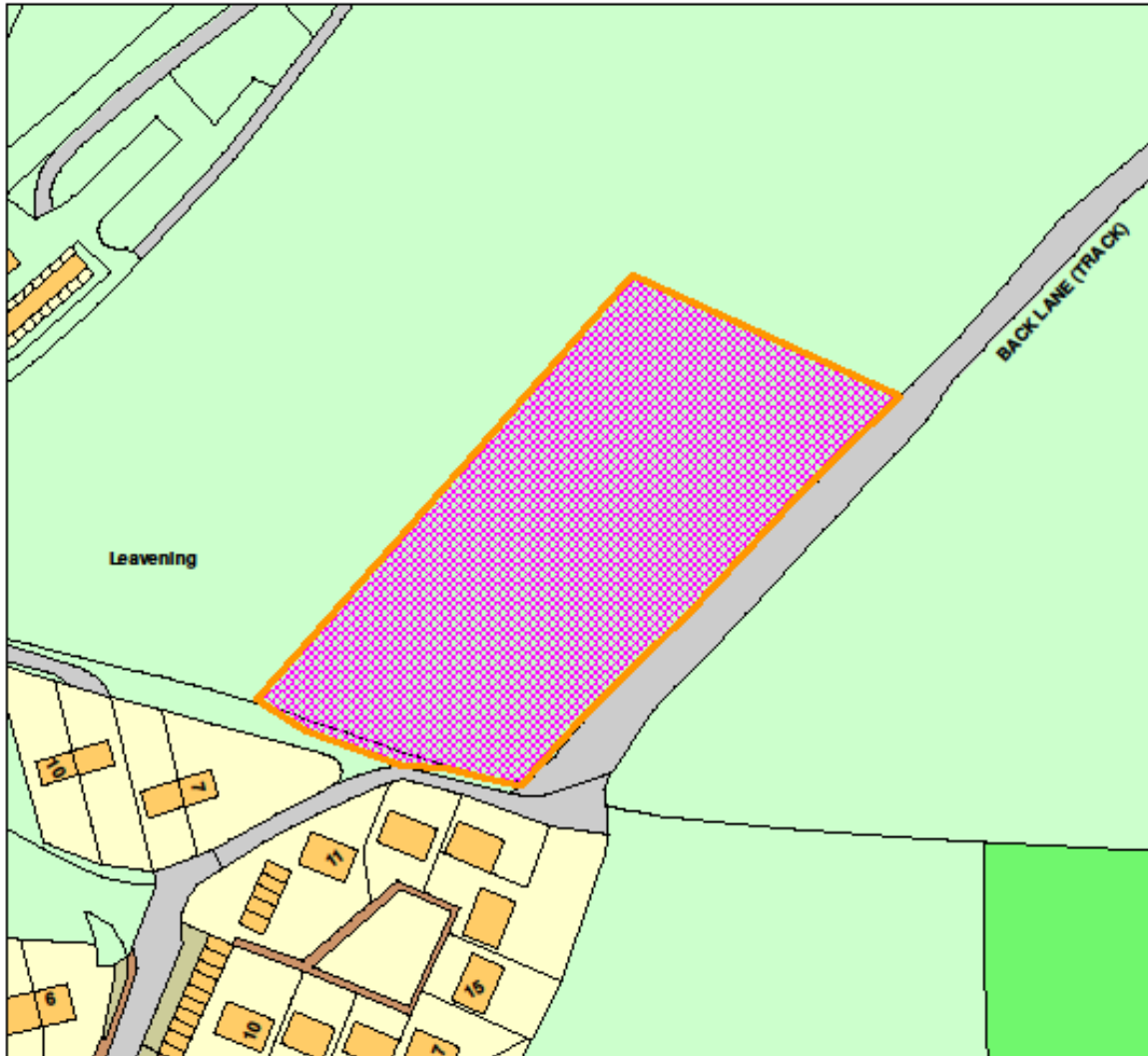
2.0 EXECUTIVE SUMMARY

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

- 2.1. The proposed development comprises the change of use of an area of agricultural land to a community space used principally for allotments. The proposal includes spaces for congregation and play, including a timber-framed 'pavillion' structure which has the capacity for intermittent and small-scale community events. Additional proposed development includes the siting of small structures to serve individual allotments, as well as a large polytunnel and 3no. storage containers to serve the whole site. A new access into the field is proposed via an existing track off Preston Hill with permeable surfacing laid to provide parking spaces.
- 2.2. The majority of the application site is located outside the development limits of Leavening and is covered entirely by the Wolds Area of High Landscape Value (AHLV) designation. It is situated within the south-east corner of the wider holding of Boundales Farm, Back Lane, Leavening.
- 2.3. Boundales Farm, including the agricultural land subject of this application, is owned by North Yorkshire Council. As the Council is not the applicant, the appropriate notice has been served on it and the ownership situation has been properly identified in the application form.

- 2.4. Officers from NYC Property Services have confirmed that the land has been in Council ownership for a very significant period of time. In recent decades, the farm has been let as a smallholding, with the current tenancy having commenced in the early 1990s. Terms for the transfer of land have been agreed between the Council and the applicants and it is expected that a transaction will be completed in the event of planning permission being granted.
- 2.5. Though not directly relating to the land subject of this application, the Council has an additional interest in the proposal due to having made a financial contribution towards the delivery of allotments in Leavening. This amounts to a total of £36,818.74, comprising: a Section 106 grant (£30,000, with £15,000 withheld until project completion), a Community Grant (£5818.74) and a Stronger Communities Grant (£1000).
- 2.6. The development of an allotments facility with additional facilities is considered to be a community facility, and it is being sought within the Wider Open Countryside. On that basis, Policy SP1 and Policy SP11 of the Ryedale Plan – Local Plan Strategy (2013) are the key relevant policies. Policy SP1 (General Location of Development and Settlement Hierarchy) identifies that for development outside of Development Limits and within the Open Countryside, development will be “restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities”. Policy SP11 supports the provision of new community facilities outside development limits in Other Villages in principle where the facility is needed to serve the local area, and cannot be provided within development limits. Leavening does not have a comparable facility. In attempting to source a suitable site for the proposal, the applicants conducted rigorous assessments of numerous sites in the vicinity of the village, but there was no availability within development limits. The proposed change of use is therefore considered to be acceptable in principle.
- 2.7. The main issues emerging throughout the course of the application were: the impact on the highway / access suitability; landscape impact; amenity impact and the consideration of surface water flood risk. These have been addressed to the satisfaction of officers and statutory consultees.

ZE23/06398/FUL

**Scale:** 1:1,250

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Organisation	North Yorkshire Council
Department	Development Management
Comments	
Date	12/03/2024
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. There is no planning history associated with the site.

4.0 Site and Surroundings

4.1. Leavening is classed as an Other Village in the settlement hierarchy of the Ryedale Plan and its key services include a primary school. Other facilities within the village include a church, a small play area connected to the school, a sports pitch and a pub.

4.2. The majority of the application site is comprised of a broadly rectangular-shaped piece of arable agricultural land (henceforth referred to as 'the field'). It is situated at the very south-east corner of the Boundales Farm smallholding, bound by mixed-density hedging, small trees and post-and-wire fencing, with open fields to the north and west. The total site area, including both the agricultural land and access track, is approximately 0.59ha.

4.3. Although the field subject of the proposal is currently accessed off Back Lane and through Boundales Farm itself, this established route is not identified as the means of accessing the main site area as it is not available into the future. As an alternative, and included within the red line, is a private lane which currently serves a small number of nearby residential properties and neighbouring fields. It is proposed that this lane will connect the field to the public highway on Preston Hill via a new opening on the southern boundary of the field.

4.4. As explained in the Executive Summary, the applicant does not own any part of the application site. While the field falls under the ownership of North Yorkshire Council, the ownership of the proposed access track is presently unknown. The applicants carried out the proper procedures to notify the community in order to identify an owner, whilst also undertaking extensive research of public records. While rights of access over the lane has been established (relating to certain nearby residential properties), an outright owner has not been identified. It is therefore considered that the owner is either unknown or there is no owner.

4.5. The field subject of the main proposal is located outside but adjoining the Leavening development limits and is covered entirely by the Wolds AHLV designation. The access track is within development limits. The site is in an elevated position to the north/north-east of the village and is situated on gradually rising land. Due to these characteristics and the topography of the wider area, the site is visible from public vantage points within the village, particularly from within residential areas which are due south of the application site (i.e. The Rise).

4.6. Adjoining the site to the north, west and east is agricultural land, some of which falls under the Boundales Farm smallholding. To the south is the built-up area of Leavening, with properties on Wold View and Preston Hill in close proximity. The

proposed access track goes between the domestic curtilages of 7 Preston Hill and 11 Wold View.

5.0 Description of Proposal

- 5.1. This application seeks Full Planning Permission for the change of use of an area of agricultural land to a community space used principally for allotments. The proposal includes spaces for congregation and play, including a timber-framed structure which has the capacity for intermittent and small-scale community events. Additional proposed development includes the siting of small structures to serve individual allotments, as well as a large polytunnel and 3no. storage containers to serve the whole site. A new access into the field is proposed via an existing track off Preston Hill with permeable surfacing laid to provide parking spaces.
- 5.2. The application is accompanied by a significant amount of information relating to the proposal, the site and the applicants themselves, including:
- Site location and layout plans
 - Plans and details for the following items: pavilion, containers, communal polytunnel, sheds, greenhouses, boundary treatments, access and signage arrangements, surfacing materials
 - Details relating to anticipated use of communal spaces
 - Flood risk assessment and surface water management plan
 - Records of ownership and other legal materials relating to the access track
 - Badger survey and report
 - Applicants' governance and management information
 - Details of community support and site identification work
- 5.3. The stated aims of the applicants are to provide allotments, school growing space, storage for village equipment, a communal garden space, a communal meeting hub and a wildlife area. The tangible goals being: to provide community space for the enjoyment of residents, including access to growing areas, a protected space for small-to-mid-sized gatherings, as well as providing a means to increase biodiversity and improve the village's economy. The intangible goals being: to improve the mental and physical well-being of residents, to increase community engagement and to improve access to wildlife and the environment.
- 5.4. The prospect of creating a new community space for the village was established at meetings of the Leavening Parish Council in 2022, with discussions and community surveys undertaken thereafter to achieve certainty about the amount of local interest. A volunteer group was formed and later formally constituted as a registered charity known as 'Leavening Allotments and Gardens'. With the support of the Parish Council, this group represent the applicants associated with the proposal.
- 5.5. The proposed pavilion (referred to within some application materials as 'potting shed') would be constructed of timber boarding under dark-coloured steel roof sheeting, with a footprint of c32 sq. metres, measuring c7 metres by c4.6 metres. The height to the ridge and eaves would be 3.5 metres and 2.4 metres respectively, with a roof pitch of 15 inches.

- 5.6. The three proposed cuboid containers would be constructed of metal and painted in dark grey. The proposal intends to soften the appearance of the containers by horizontally cladding them with tanned wooden battens. Additionally, the non-opening 'end' of each container would be clad with a 'bug hotel', while the tops will support a green roof. They would each have a footprint of c15 sq. metres, measuring c6 metres by 2.5 metres, with a height of c2.5 metres.
- 5.7. Each allotment is proposed to feature both a small shed and either a small greenhouse or polytunnel, with some flexibility allowed to accommodate the choices of future allotment holders. The sheds would be constructed of timber and measure c2.4 metres by c1.9 metres, with a ridge height of c2.4 metres. The greenhouses or polytunnels would be constructed of polycarbonate sheeting to reduce glint and glare and would not exceed a footprint of c5 metres.
- 5.8. An additional polytunnel is proposed for communal purposes and is not related to any of the 12 individual allotments. This would also be constructed of polycarbonate sheeting and measure c6 metres by c2.5 metres, with a ridge height of c2.2 metres.
- 5.9. The proposed layout features an internal access track around its perimeter to enable maintenance of hedges and fencing from within the site itself. Within the area bound by the internal access, the layout is effectively split in half: the western side featuring the pavilion, communal polytunnel, containers and a network of spaces for growing and for play; the eastern side featuring the 12 individual allotments as well as five car parking spaces.
- 5.10. The proposal seeks to establish a well-defined boundary to provide a clear separation between the application site and the rest of the field in which it sits. This will be achieved by the addition of new hedges to the west and north boundaries, as well as the addition of 1100mm-high wire mesh fencing. The proposal also seeks to reinstate hedging to the southern boundary and will erect a 6-foot high close-boarded fence as an interim measure to protect the amenity of neighbouring residential properties to the south.
- 5.11. New openings into the field are proposed at the southern boundary: a vehicular access to connect with the existing private lane which leads onto Preston Hill; and a pedestrian access to connect to Back Lane. The two openings are proposed to be gated by appropriately-sized and lockable galvanised gates.

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.

6.2. The Adopted Development Plan for this site is:

The Ryedale Plan – Local Plan Strategy (2013)

Policy SP1 – General Location of Development and Settlement Hierarchy

Policy SP9 – The Land Based and Rural Economy

Policy SP11 – Community Facilities and Services

Policy SP13 – Landscapes

Policy SP14 – Biodiversity

Policy SP15 – Green Infrastructure Networks

Policy SP16 – Design

Policy SP17 – Managing Air Quality, Land and Water Resources

Policy SP19 – Presumption in Favour of Sustainable Development

Policy SP20 – Generic Development Management Issues

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 as it is at an early stage of preparation.

Guidance - Material Considerations

6.4. Relevant guidance for this application is:

- National Planning Policy Framework 2023
- National Planning Practice Guidance

7.0 Consultation Responses

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

7.2. **Parish Council:** The Parish Council supports the proposal and has endorsed the volunteer group that have made the application. The Council acknowledges that objections have been made by residents proximal to the site but considers that appropriate measures will be included to address concerns. They consider that the project would provide a wider public benefit for the village and local area.

7.3. **North Yorkshire Council Highways:** Highways engineers recommend that certain conditions be attached to a grant of planning permission, specifically referring to access, parking, manoeuvring and turning areas. This followed an initial response which recommended that the application be refused due to the insufficient width of the access track. The applicants made amendments to the proposal which sought to mitigate the issue and Highways colleagues revised their recommendation.

7.4. **Lead Local Flood Authority:** The application does not meet the threshold which requires the LLFA to make a statutory response; however, advice was offered to planning officers. This amounted to ensuring that no impermeable areas be added to the land to ensure that the risk of surface water run off was not increased, and to

ensure that a suitable drainage system be incorporated to take account of any additional run-off.

- 7.5. **North Yorkshire Council Environmental Health:** After seeking more information from the applicants, Technical Officers consider that the scale and nature of potential events at the site were appropriate and have no concerns regarding noise. They have no objections to the proposal.
- 7.6. **North Yorkshire Council Ecology:** The Council Ecologist has reviewed the submitted badger survey and report and is satisfied that the proposal is unlikely to have an impact on the viability of the local badger population.
- 7.7. **Designing Out Crime Officer:** No concerns to raise.

Local Representations

- 7.8. 48 local representations have been received of which 33 are in support and 12 are objecting. A summary of the comments is provided below, however, please see website for full comments.
- 7.9. Support:
- In support providing that any objections are considered
 - Rural communities have limited access to activity and communal areas
 - The proposal will improve physical and mental well-being/welfare
 - The proposal will provide an educational tool for the school
 - The site is in a good location distanced from public roads
 - The site will provide views of the countryside and other settlements
 - Houses only have small gardens and people have limited access to grow food
 - The proposal will help to provide food locally
 - There are sustainability benefits as any food transported to the site would travel very few miles
 - Will provide a place for social interaction and community development
 - The proposal will enable people to share ideas and skills
 - There are a lack of meeting places within the village
 - The site is easily accessible and has easy pedestrian/wheelchair access
 - The proposal will enable a walking loop from Back Lane to Preston Hill
 - It is important to reserve green spaces as the village expands
 - The site will become more attractive to wildlife and biodiversity
 - The village has a shortage of children's play spaces
 - There are very few green spaces within the village
 - There is an unmet demand for allotments within the village
 - The scheme contains sufficient landscaping and there will be minimal impact on neighbours
 - There are sufficient parking spaces within the site
 - The proposal would make good use of Section 106 funding
 - There is no alternative land more suitable for allotments
 - The impact on adjoining residents has been taken into account
 - The proposal will act as a buffer to any new development in the village

7.10. Objections:

- The access track which connects the field to Preston Hill is unavailable to use
- The access track is unsuitable because it is unsafe and too narrow for pedestrians to avoid vehicles
- There are existing traffic and on-street parking issues on Preston Hill which will increase
- There is insufficient parking within the site itself/no contingency for overflow parking
- The use of the access track would impede access for neighbours
- The formation of the new opening into the field will lead to the removal of existing landscaping
- The formation of the new opening into the field will lead to the loss of a storm drain
- The proposal will lead to overlooking into nearby residential properties
- The proposal will lead to unacceptable levels of noise
- There are existing allotments already within the village which are not being used
- Work has already started on site, including the access track being laid with new stone and water infrastructure being added on site
- Other locations would be more suitable for the proposal

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
- Access and highway safety
- Impact on residential amenity
- Surface water flood risk
- Impact on landscape

10.0 ASSESSMENT

Principle of Development

10.1. The application proposes the change of use of agricultural land to a community area comprising allotments and other communal spaces.

10.2. Policy SP1 (General Location of Development and Settlement Hierarchy) identifies that for development outside of Development Limits and within the Open Countryside, development will be “restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities”.

- 10.3. Policy SP9 (the Land-based and Rural Economy) of the Local Plan Strategy supports the diversification of land for local food production. As the allotments would enable this, the change of use of agricultural land for this purpose would be supported. The policy does not make specific reference to community spaces, however it does support 'appropriate farm and rural diversification activity including innovative approaches'. The land is Grade 4 in terms of its wider agricultural land classification (and therefore is not classified as best and most versatile), but is used for crop growing. It represents a small part of the site, and would provide local food growing opportunities.
- 10.4. Policy SP15 (Green Infrastructure Networks) states that a network of green open spaces and natural features will be created and managed to support biodiversity and environmental systems to enhance the attractiveness of places and to support healthy lifestyles by providing opportunities for activity and relaxation. The policy specifically identifies that creating new open spaces, play spaces and allotments is one such means of achieving the Plan's green infrastructure aspirations.
- 10.5. Policy SP11 (Community Facilities and Services) supports proposals for new facilities outside of development limits where they are needed to serve the local area and cannot be provided within development limits. The development of accessible community facilities – including meeting places and open spaces – is also supported by the NPPF (Pars. 8, 88 and 97). Additionally, the NPPF makes specific reference to the provision of allotments as a means to promote healthy and safe communities (Par 96).
- 10.6. Regarding the matter of need, Leavening does not currently have a meaningful community allotment space. One of the objections refers to the presence of existing allotments. The applicants provided details of an existing private allotment – a small site located off the end of Beck Lane – which cannot suitably deliver the communal aims inherent to the proposal. The village has a sports field and a small play area located near to the primary school but these are not places for the casual social interactions which would be enabled by this scheme.
- 10.7. Regarding the matter of location, the applicants have provided supporting materials which demonstrate the extent of their search for a suitable site which meets their aspirations for a high quality community facility. The search identified seven options, including the application site, all of which were outside development limits.
- 10.8. The applicant has explained that the field at Boundales Farm is the most acceptable of those surveyed because it has excellent soil, is south facing, is within easy walking distance of the entire village, has a potential access and is available. This was in comparison to other sites considered, each of which faced viability issues, including: land being too steep to cultivate; being closer to busier roads; having poor soil; having drainage issues; having steepness issues; and having accessibility issues.
- 10.9. It is clear that there is not a suitable site within development limits for such a proposal. Nevertheless, the application site is located very close to residential properties and is within reasonable walking distance for the remainder of the population of Leavening.

- 10.10. The provision of additional community spaces within the village has been a demonstrable aspiration of the village since Spring-time in 2022. The applicant has provided a timeline which documents the development of the project, initially commencing when the Parish Council engaged in a survey to explore ideas for the expenditure of Section 106 funding. A desire for allotments and communal garden spaces was established, with a total of 45 residents later outlining their intentions to be involved in the scheme in some way.
- 10.11. The principle of the project is something which is clearly endorsed by the community and indeed by the former local authorities (Ryedale District Council and North Yorkshire County Council), demonstrated by the issuing of grant funding to assist with delivery. The proposal is a form of development which would support a range of plan objectives in principle, and has been demonstrated to be necessary to be in that location, and meet the needs of the community in Leavening. It is also a compatible use given its rural location, and contributes to delivery of Green Infrastructure.
- 10.12. Therefore the proposed change of use is considered to be acceptable in principle and consistent with the policy principle objectives of Policies SP1, SP9, SP15 and SP11, subject to consideration of the site-specific impacts in relation to highways/access, impact upon residential amenity, impact on landscape, and surface water flood risk.

Access and Highway Safety and Accessibility

- 10.13. Policy SP20 (General Development Management Issues) requires that access to and movement within sites by vehicles, cycles and pedestrians should not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. In consultation with the Local Highway Authority, officers have sought amendments to the proposal to ensure compliance with this policy.
- 10.14. The field which is proposed to accommodate allotments and communal spaces is to be served by an existing private lane. This lane begins where the north-east end of Preston Hill terminates. The transition from public highway to private lane is therefore immediate.
- 10.15. The lane itself is unsophisticated, narrow and is initially situated between two residential properties. Its entrance is formed by the extent of those domestic curtilages, which also serve to align it in a north-easterly direction for approximately 35 metres. When the lane meets the southern boundary of the field, it bends eastwards to connect to the historic Back Lane. At this point, it flanks the boundary of the field and provides rear access to two properties on Wold View, as well as neighbouring agricultural land.
- 10.16. In order to provide vehicular access to the field from the lane, the proposal seeks to make a new opening on the southern field boundary. This would effectively create a junction, enabling the lane to continue in a broadly north-easterly direction into the field, at the same point at which it bends eastwards.
- 10.17. Objections have been received by neighbouring residents regarding this aspect of the proposal.

- 10.18. One objection was on the grounds that the applicant would not have permission to use the lane to serve the field in any event, thereby fundamentally preventing the scheme from being viable. Although land ownership and right of access is commonly only a civil matter, when there is an expectation of access to enable the use of a site, the matter becomes a material planning consideration. It must therefore be considered when assessing the full impacts of the proposal, with particular regard for whether or not the development can reasonably take place.
- 10.19. This matter was considered by officers in consultation with highways engineers, who expressed concerns that a sudden closure of the lane in future might directly cause congestion and parking issues on Preston Hill. In an effort to identify any owners, notice has been appropriately served on the local community and the applicant has conducted extensive research of numerous public records. These efforts have wrought no conclusive evidence of an owner and officers are therefore confident that an unforeseen closure of the lane (which is based upon a legal precedent) is very unlikely to occur.
- 10.20. Objections were also received on the basis of the suitability of the access in terms of highway safety. Residents from some nearby residential properties referred specifically to the lane being used by agricultural machinery and farm vehicles and the risks posed to pedestrians who might be using the lane to access the site. In addition to those objections, highways engineers also initially recommended that the scheme be refused due to concerns that vehicles travelling in opposing directions could lead to undesirable reversing movements onto Preston Hill.
- 10.21. To address concerns from residents and highways engineers alike, the applicants have amended the proposal to include mitigation measures.
- 10.22. Regarding the possibility of pedestrians sharing the lane with vehicles, officers acknowledge that footfall along the lane may increase if the proposal is implemented. However, this is not expected to be by a significant amount, meanwhile the use of the lane would not be fundamentally changing in any case. The lane is available to pedestrians now and therefore users might encounter vehicles (and vice versa) even without the implementation of the proposal.
- 10.23. In order to reduce instances of pedestrians sharing the lane with vehicles, the scheme includes a non-vehicular entrance to the site off Back Lane, therefore providing an alternative option for those accessing the site on foot. To safeguard pedestrians who still choose to use the lane off Preston Hill, an appropriately-positioned convex mirror has been proposed in order to aid the visibility of motorists joining the lane from the east.
- 10.24. In order to reduce instances of pedestrians sharing the lane with vehicles *and* to reduce the likelihood of vehicles meeting 'face-to-face', appropriately-positioned 'give way' signage has been proposed within the field. This would give priority to any vehicles arriving via Preston Hill, requiring any vehicles exiting the field to pause and remain within the site.

- 10.25. Highways engineers are satisfied that this package of measures will appropriately reduce risks to highway safety and therefore revised their initial recommendation of refusal. Conditions have been recommended.
- 10.26. Separately to matters relating to the lane; a further concern was raised about the scheme incorporating an insufficient number of parking spaces. However, this is not considered to be a major issue for the same reasons expressed above: there is a clear onus on accessing the site via active travel modes and it is not expected that the site will be required to accommodate a significant number of parked vehicles. Highways engineers did not consider this an issue and so the number of spaces proposed is therefore considered sufficient.
- 10.27. With due regard to Section 149 of the Equality Act 2010, it is noted that – due to the sloping nature of the land, particularly at the points of access into the field – access to the site is not especially conducive for persons whose mobility may be impaired. As demonstrated by the applicants’ search for a suitable site, there isn’t one in existence in the village which would be entirely without such constraints; that is to say, there is no available location within Leavening which is mostly flat. This is due to the physical geography of the settlement, which is situated within a valley, surrounded by sloping land.
- 10.28. The applicants have expressed their intentions to make the site as inclusive and as accessible as possible and have sought advice from specialist charities. There is an acceptance that accessing the field on foot may present challenges to persons who face mobility issues; as such, there are some whose only option may be to arrive in a vehicle. However, the proposal itself includes features which seek to enable people of all abilities to enjoy the use of the facility: the surfacing within the communal areas of the site would be conducive to wheelchair users, whilst many of the communal flower beds would be at different heights, with nearby seating. Tactile and other sensory gardening features are also included in the scheme. These aspects concerning the gardening features cannot be reasonably controlled by planning condition, however they demonstrate the applicant’s consideration of equal opportunities.
- 10.29. In addition to the mitigation measures proposed, officers consider that due to the nature of the proposal and its accessibility via active travel modes, significant volumes of traffic are unlikely to be generated. The Local Highway Authority are now satisfied (subject to conditions). It is therefore considered the proposal can satisfy Policy SP20 regarding its impacts on traffic and pedestrians.

Impact on residential amenity

- 10.30. Policy SP20 (General Development Management Issues) of the Local Plan Strategy states that 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.

- 10.31. The field part of the application site does not share a boundary with any residential properties, however it is proximal to dwellings on Preston Hill and Wold View. The private lane which is proposed to provide vehicular access is aligned by the domestic curtilages of 7 Preston Hill and 11 Wold View. Due to these neighbouring uses, the impact on residential amenity is a key consideration in the determining of this application. Officers – in consultation with Environmental Health colleagues – have sought to ensure that the proposal will not create a level of noise or disturbance that would be harmful to residential amenity.
- 10.32. Objections have been received from neighbouring residential properties regarding possible unacceptable levels of overlooking and noise from use of the communal spaces on site. Plausible day-to-day nuisances which might emanate from occupied allotments (without sufficient control) have also been considered by officers, though such matters have not been raised in any objections, and the allotment association have identified a management plan for controlling antisocial behaviour.
- 10.33. Regarding the matter of overlooking, residential properties on Wold View – closest to the southern boundary of the field – have greatest sensitivity. A site visit revealed that there are at least two houses on Wold View whose levels of privacy could be unreasonably impacted without sufficient mitigation. To address this, the applicants have provided details of both short-term and long-term measures to provide a suitable level of screening. The proposed interim measure is to install a 6-foot tall close-panelled timber fence along the southern boundary, allowing time for the re-planting of hedging to sufficiently mature and provide screening, thus preventing any unacceptable overlooking in perpetuity.
- 10.34. A resident from one property on Preston Hill, which abuts the proposed access, has also raised concerns about possible overlooking; however, officers consider that, in this case, there is less sensitivity. The access track is already used by the public to pass and repass. The property in question has an existing strong defensible boundary in the form of fencing and the house itself is at a greater distance from the site than the properties on Wold View. It is also noted that the communal activities related to the proposal are not situated at the southern aspect of the field; instead that area is a mostly transitional space where persons and vehicles enter, exit and park. As such, there is less scope for users of the site to linger in areas where they might be causing an unacceptable loss of privacy.
- 10.35. Regarding the matter of noise impact, it is considered that – although the proposal would lead to a greater amount of activity than what is existing – the most routine use of the site (i.e. people tending to allotments) would be low-key and not lead to an unacceptable level of noise. Indeed it is typical for community allotments and associated activities to be situated near to residential properties, as is the case here. Noise from vehicles accessing the site is also expected to be low, with daily comings and goings expected to be low in amount given the site's accessibility on foot. The speed at which vehicles will be travelling is also expected to be very low due to the nature of the access, thus creating less noise.
- 10.36. It is noted that the communal spaces proposed have more scope for impacting residential amenity by virtue of noise creation. In dialogue with Environmental Health

technical officers, the applicants have provided a schedule of planned events which would be publicised only within the village and which will attract generally low numbers of people. The majority of these events are not conducive to noisy activity and are proposed to occur once annually. The events with the greatest frequency are proposed four times per year, with an anticipated attendance of approximately ten people on each occasion. Collectively, the communal events are not expected to create unacceptable levels of disturbance and Environmental Health officers had no concerns following the receipt of information.

- 10.37. Regarding other possible nuisances emanating from the day-to-day use of allotments, officers have sought assurances from the applicants that typical sources of nuisance will be minimised. It is not the duty of the local planning authority to be unduly restrictive, however it has been agreed with the applicants that bonfires will not occur on the allotments, and nor will allotment holders keep any livestock (namely noisy birds) on site. Additionally, any communal events will not be accompanied by live bands and/or amplified music. These features are subject to a precluding condition. The applicants have provided an initial draft of allotment rules which seek to cover these issues, thus demonstrating their firm intention to minimise nuisance.
- 10.38. In conclusion, Environmental Health and the Designing Out Crime Officer from North Yorkshire Police are satisfied, and the applicants are agreeable to the requirement of certain controls by virtue of a planning condition. It is considered that the proposal would not cause an unacceptable impact on the amenity of neighbouring residential properties. Therefore the scheme complies with the requirements of Policy SP20 in respect of residential amenity.

Surface water flood risk

- 10.39. Policy SP17 (Managing Air Quality, Land and Water Resources) of the Local Plan Strategy states that flood risk will be managed by requiring the use of sustainable drainage systems and techniques to promote groundwater recharge and reduce flood risk. Development proposals will be expected to attenuate surface water run off to the rates recommended in the Strategic Flood Risk Assessment.
- 10.40. According to the Environment Agency's (EA) flood risk map for planning, the application site and its environs are in Flood Zone 1, which represents the lowest possible risk of flooding from rivers and sea. The EA's surface water flood risk map also indicates that the site itself is at a low risk from surface water flooding. As such this is a sequentially appropriate location for the development.
- 10.41. Despite the low risks as presented in public data, concerns have been raised across numerous neighbour objections about surface water flood risk being increased to neighbouring properties, with reference to how the implementation of the scheme would increase this risk by compromising existing drainage solutions.
- 10.42. The concerns have been carefully considered in consultation with the Lead Local Flood Authority (LLFA) and more information has been sought from the applicants to clarify the situation. Officers have also attempted to gain a clear understanding of the

historical situation with respect to flood risk in consultation with the current landowner and agricultural tenant.

- 10.43. Given the topography of the site, it is acknowledged that surface water run-off exits the site in a southerly direction. This has been supported by mapped flow-paths on software managed by the LLFA. Photographic evidence has also been received from one neighbour which demonstrates this flow-path: water exits the field at the southern boundary before being diverted east and then south again, where it enters the established watercourse (Leavening Beck).
- 10.44. In order to ensure that run-off bypasses properties on Wold View, there is a manmade structure located on the southern boundary, nearest to the south-east corner. The Council's Property Manager has confirmed that this is a brick soakaway – unconnected to any other drainage – which was installed at the instruction of the Council's land agent approximately 40 years ago after a flash flooding event. It is understood that a flooding event of this nature has not reoccurred since. The proposal would not interfere with this soakaway.
- 10.45. Concerns have been raised by neighbours that the proposal (specifically the aspect which seeks to create a new vehicular entrance on the southern boundary) would compromise a 'storm drain' which runs along the southern boundary of the field and aids in the diversion of run-off. The infrastructure referred to is an unsophisticated ditch drain and does not represent any formal drainage apparatus; indeed the drain was not in existence when officers visited on 9 February 2024. Photos have since been provided by neighbours which show that a ditch has since been dug along the southern boundary. Officers ultimately consider that there is no definitive evidence which indicates that this ditch provides an essential drainage solution to safeguard dwellings from run-off.
- 10.46. The applicants have nevertheless had a Flood Risk Assessment independently carried out. This confirmed that the site itself is at low risk from flooding but also states that the proposals are not expected to significantly displace floodwater during extreme events or increase flood risk to third parties. Regardless, the applicants have attempted to incorporate flood attenuation into the scheme, including with the implementation of a culvert at the point of access which can link into the aforementioned storm drain/ditch on the southern boundary.
- 10.47. Officers are satisfied that the proposal will not compromise existing drainage infrastructure and, additionally, the nature of the scheme will deliver sustainable surface water management solutions. A surface water management plan has been provided by the applicants; this demonstrates a list of natural measures which seek to aid in capturing water, or slowing its flow rate and thus potentially reducing the amount of run-off which currently exists. The plan incorporates precautionary measures; seeks to utilise more water than the field currently does, and maximise water retention on site. These mitigation measures can be ensured by planning condition.
- 10.48. The LLFA have considered the strategy and are satisfied with its contents. Officers consider that the applicants have rightly gone to considerable effort to consider surface water flood risk and mitigate any risk as a result of the changes to the ground

regime. Indeed, the scheme has the capacity to deliver a net gain in terms of water attenuation, which would weigh in the application's favour.

Impact on landscapes

- 10.49. Policy SP13 (Landscapes) of the Local Plan Strategy states that the Council will carefully consider the impact of development proposals on the Wolds Area of High Landscape Value, in which the application site is located. As such, the site is valued for its natural beauty and scenic qualities and has particular visual sensitivities due to its topography: rising above the built extent of the village, providing long-distance views of the surrounding area.
- 10.50. No objections have been received with respect to wider landscape impact, but reference to a break in the hedge being made was referenced as a landscape impact. It is considered to be a very localised in its impact, and there is already a 'gappy' hedge so the creation of the access would not represent significant harm to the landscape features of the site. Nevertheless Officers recognise the site does possess visual sensitivities to be taken account of, but it is considered that the proposal would, in principle, not lead to the loss or degradation of elements which are intrinsic to the landscape character. Although activity on site would increase, the proposed use is not significantly removed from the agricultural one associated with the site historically. Key boundary features are retained. The proposal does not seek to introduce tall structures onto the site.
- 10.51. Views into the site are limited to public vantage points from within the village itself, particularly from the south. There are no public spaces or rights of way that are well-distanced from the site which enable views into it. It is physically and visually connected to the built-up area of Leavening and its development would be seen in the context of the village itself.
- 10.52. Despite the unlikelihood of the proposal causing any significant degradation of the landscape's special qualities in principle, officers have nevertheless worked with the applicants to ensure that the impact is as low as possible. This has manifested in alterations to the original scheme:
- The re-positioning of the community built structures lower down the escarpment than initially proposed- to tie them closer to the existing built form of Leavening;
 - Incorporation of less-reflective materials (as opposed to glass) to reduce possible glint and glare;
 - The sheds and pavilion would be constructed of predominantly timber, with the latter deliberately designed to be agricultural in appearance – including a 15 degree pitch;

These design elements will be ensured by planning condition. Any external lighting and the landscaping of the site will also be conditioned. No external lighting is currently proposed, but once build and in use, many forms of lighting can then become permitted development.

- 10.53. With these revisions undertaken, officers consider that there would not be an unacceptable level of impact on the locally valued landscape and the proposal is therefore acceptable in terms of Policy SP13.

Protected species, biodiversity and off-site habitats

- 10.54. Policy SP14 (Biodiversity) of the Local Plan Strategy states that biodiversity should be conserved, restored and enhanced through a number of methods including resisting development proposals that would result in significant loss or harm. In considering proposals for development, proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them. This is not a proposal which is subject to the mandatory biodiversity net gain, but Policy SP14 seeks to ensure that proposals represent a net gain to biodiversity.
- 10.55. Concerns were raised by objectors about the presence of a badger sett which was either within or proximal to the site. Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to wilfully kill, injure or take badgers, or to interfere with a badger sett. With due regard to this sensitivity, the applicants sought the services of professional ecologists to fully understand any risks which might be posed by virtue of the proposal.
- 10.56. A report was submitted to the authority and shared with the Council's Ecologist. This concluded that the impact to badgers would be negligible and that there is unlikely to be an impact on the viability of the local badger population. It is considered that the proposal would not be in conflict with Policy SP14 or national legislation in relation to badgers. No other protected species were recorded.
- 10.57. In addition, it is considered that the application site has a presently has a low baseline for biodiversity, given its arable nature, and that the proposal would enhance levels, and represents a net gain in biodiversity. New perennial habitats are proposed in the form of the site's landscaping, including new hedging which will demarcate the site within the agricultural field, as well as features which are deliberately included to increase biodiversity, such as the 'bug hotels' to be affixed to the containers, which is to help with pollination of crops. The variety of planting regimes will help provide insects with a range of sources of food. The proposal is considered to be in conformity with the local and national policies which exist to protect and enhance nature and biodiversity.
- 10.58. This weighs in the application's favour as it is in strong alignment with Policies SP14 and SP15, which seeks to protect, enhance and create new habitats by increasing the diversity of species planted. National policy also states that planning decisions should contribute to and enhance the natural environment by providing net gains for biodiversity (NPPF Par 180).

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The application proposes the change of use of agricultural land to a community facility comprising allotments and other communal spaces. The change of use is supported in principle by Policies SP1, SP9, SP15 and SP11 of the Local Plan Strategy (2013).
- 11.2. The most pertinent issues relating to the application concerned access and highways safety, impact upon residential amenity, surface water flood risk and impact upon landscape. Matters relating to ecology were also considered.
- 11.3. Following consultation with relevant specialists and statutory consultees, there are no site-specific or technical issues (as outlined above) with the proposal and it is in compliance with relevant policies within the wider local plan.
- 11.4. The key benefit to the proposal would be the delivery of a community facility for the village of Leavening. It would represent a positive addition because is currently no existing facility which is comparable in terms of having the ability to deliver communal aspirations.
- 11.5. It is considered that, subject to relevant conditions, the proposal represents plan compliant development, and in accordance Policy SP19 – Presumption in Favour of Sustainable Development, the proposal is recommended for approval.
- 11.6. It is noted that some works have been undertaken, but these do not influence the application's consideration or its planning merits.

12.0 RECOMMENDATION

- 12.1 That planning permission be GRANTED subject to conditions listed below.

1. The development hereby permitted shall be begun on or before the date three years after the granting of this permission.

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans and supporting information:

Site Location Plan (scanned 26.01.2024)

Site Layout Plan (scanned 23.01.2024)

Perimeter Fence Plan (scanned 05.12.2023)

Pavilion/ Communal shed Elevations and Floor Plan with base details and brick plinth dimensions (scanned 07.03.2024)

Communal poly-tunnel details (scanned 13.11.2023);

Shed details (scanned 13.11.2023);

Greenhouse details (scanned 23.01.2024) and

Containers details (scanned 23.01.2024)

Reason: For the avoidance of doubt and in the interests of proper planning and to be in accordance with Policies SP1, SP13, SP14, SP17 and SP20 of the adopted Ryedale Plan – Local Plan Strategy

3. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at the Allotments and Gardens, Back Lane, Leavening 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 appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development, in accordance with Policy SP20 of the adopted Ryedale Plan – Local Plan Strategy.

4. No part of the development must be brought into use until the Signage Plan (scanned 29.02.2024) has been implemented in accordance with the details hereby approved in writing by the Local Planning Authority and Local Highway Authority.

Reason: To provide for appropriate access arrangements in the interests of highway safety and the general amenity of the development, in accordance with Policy SP20 of the adopted Ryedale Plan – Local Plan Strategy.

5. Prior to the approved scheme being brought into use, the surface water drainage infrastructure shall be completed in full accordance with the approved Surface Water Management Plan with accompanying drainage regime (scanned 26.02.2024) and with reference to Surfacing Materials (scanned 13.11.2023). Any variation to the approved surface water scheme (including approved permeable surfacing materials) shall require the prior written approval of the Local Planning Authority.

Reason: To ensure effective drainage of the site and to ensure that the risk of any surface water run-off is not increased by virtue of the development in accordance with Policy SP17 of the Ryedale Plan – Local Plan Strategy.

6. Prior to the approved scheme being brought into use, the boundary treatment works shall be completed in full accordance with the approved details, with reference to Boundary Fence Details (scanned 23.01.2024) and Gates details (scanned 05.12.2023). Any variation to the approved details shall require the prior written approval of the Local Planning Authority.

Reasons: To protect residential amenity, ensure quality landscaping on the site, and to support biodiversity enhancement, in accordance with Policies SP20, SP13 and SP14 and SP15, respectively, of the Ryedale Plan – Local Plan Strategy.

7. Unless otherwise agreed in writing with the Local Planning Authority, the following activities shall not be permitted on-site at any time:
 - The keeping of animals, poultry or livestock
 - The burning of any waste including organic materials

- Amplified music and/or live bands
- The use of fireworks or any other pyrotechnics

Reason: To prevent harm to neighbouring amenity in accordance with Policy SP20 of the Ryedale Plan – Local Plan Strategy.

8. Unless otherwise agreed in writing by the Local Planning Authority, the site shall be landscaped in accordance with the details submitted to the Local Planning Authority, with reference to the Site Layout Plan (scanned 23.01.2024). 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, and any trees or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SP13 and SP20 of the Ryedale Plan, Local Plan Strategy.

9. The details of any external illumination which may be proposed on the site shall be submitted to an approved in writing by the Local Planning Authority, before their implementation, and thereafter so maintained.

Reason: To ensure that the appearance of the site during hours of darkness is acceptable within the locality and the wider landscape, and to protect the nocturnal character of the site, in accordance with Policies SP13 and SP20 of the adopted Ryedale Plan – Local Plan Strategy.

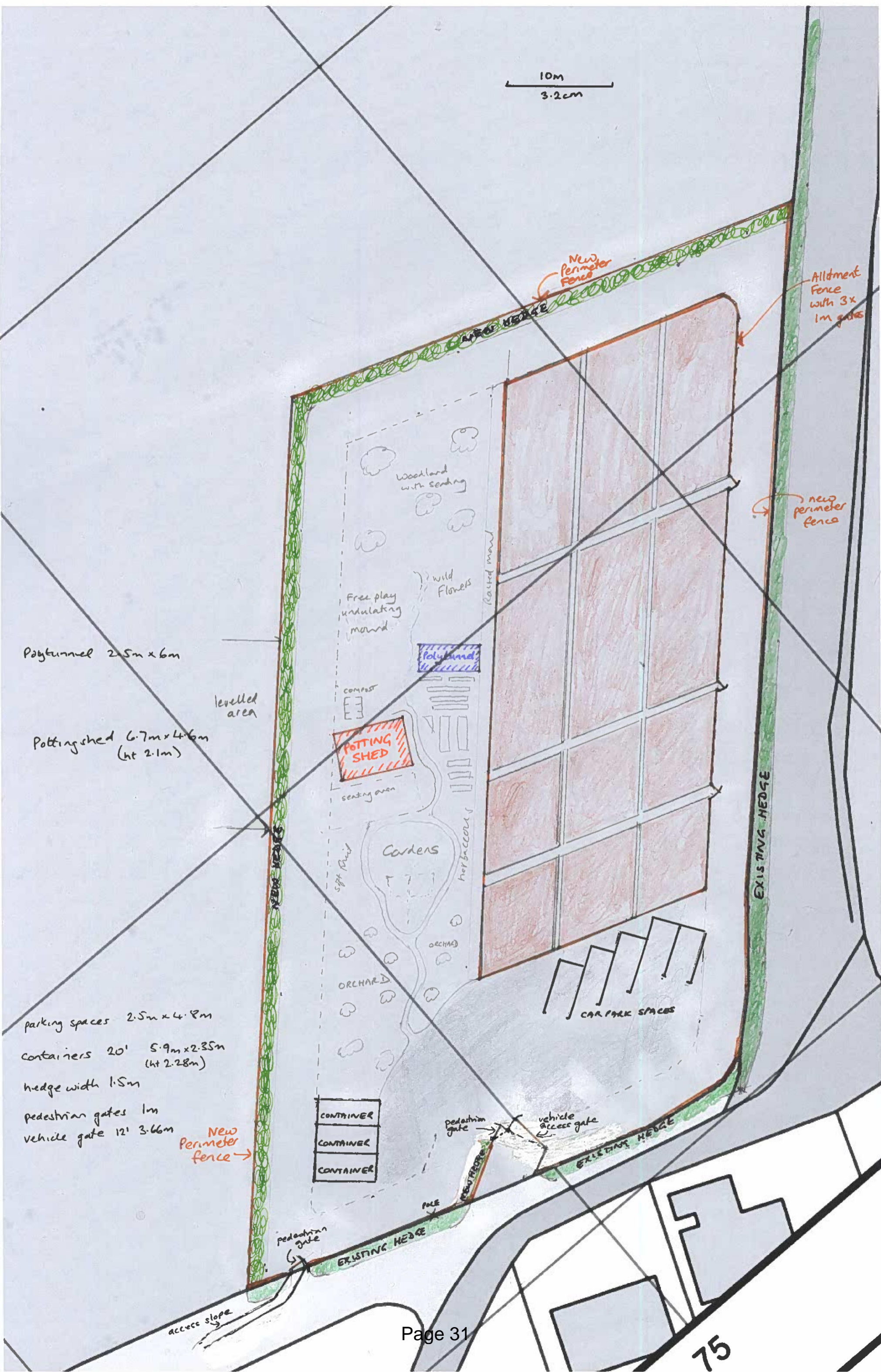
Target Determination Date: 13.03.2024

Case Officer: Matthew Lishman, matthew.lishman@northyorks.gov.uk

Appendix A – Site layout plan

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10m
3.2cm



Polytunnel 2.5m x 6m

levelled area

Potting shed 6.7m x 4.6m
(ht 2.1m)

parking spaces 2.5m x 4.8m

containers 20' 5.9m x 2.35m
(ht 2.28m)

hedge width 1.5m

pedestrian gates 1m

vehicle gate 12' 3.66m

New Perimeter fence →

pedestrian gate

pedestrian gate

vehicle access gate

access slope

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North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

21 MARCH 2024

ZE23/06955/73- APPLICATION FOR THE VARIATION OF CONDITION 02 OF PLANNING APPROVAL 23/00077/73 DATED 18.04.2023 TO REMOVE THE RESTRICTION ON THE NUMBER OF EVENING EVENTS PER MONTH AND TO ALLOW AN INCREASE IN THE TOTAL NUMBER OF EVENING EVENTS FROM 10 TO 50 OCCASIONS PER CALENDAR YEAR ON LAND AT DOGH, MAIN STREET, WELBURN, MALTON ON BEHALF OF MRS GEORGIA DOWKES-WHITE (DOGH LIMITED)

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

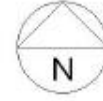
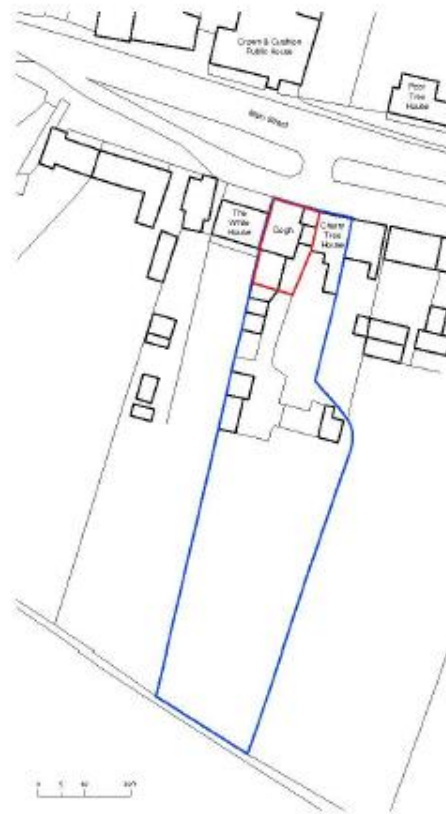
- 1.1 To determine a planning application for the variation of Condition 02 of planning approval 23/00077/73 dated 18.04.2023 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year on land at Dogh, Main Street, Welburn, Malton.
- 1.2 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to the conditions listed in Section 12 of this report.

- 2.1. The proposed development comprises the variation of Condition 02 of planning approval 23/00077/73 dated 18.04.2023 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year.
- 2.2. The application relates to a two-storey building located centrally within the village of Welburn. The building stands to the south of Main Street and occupies an elevated position in relation to the public highway which runs through the village. The ground floor of the building is currently operated under the name 'Dogh' and is an established mixed use unit which provides a shop, café and hot food takeaway.
- 2.3. The site lies within the development limit of Welburn and is within the village Conservation Area. It is also within the Howardian Hills National Landscape (AONB). In addition to falling within land designated as village green the grassed areas to the front of the building which flank the access are within a Visually Important Undeveloped Area (VIUA).
- 2.4. The main issues through the course of the application have been the impact on local and residential amenity, the impact on the National Landscape (AONB) and the impact on highways safety. It is considered that these matters have been adequately addressed.

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 THIS DRAWING HAS NOT BEEN PRODUCED FOR CONSTRUCTION OR SPECIFICATION PURPOSES
 DO NOT SCALE FROM THIS DRAWING - IF IN DOUBT, ASK



C	Red line amended for new application	RJ	06.12.21
B	Site blue line boundary added	RJ	31.10.21
A	Site red line boundary added	RJ	30.10.21

Rev Description By Date



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Project DOGH

Address WELBURN

Client S & S HOLT

Drawing Title

SITE LOCATION PLAN

Job No.	Draw No.	Revision	Scale @ size
128	(EX)01	C	1:1250 @ A4

Date Drawn	Status	Drawn by
Oct 21	EXISTING	RJ

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/>
- 3.2. The application initially proposed the variation of Condition 02 of planning approval 21/01590/73A dated 18.03.2022 as amended by approval 23/00077/73 dated 18.04.2023 to allow an extension of opening hours to 08:00-22:30 daily all year round (no opening on Christmas Day or Boxing Day).
- 3.3. However, during the course of processing the application, it came to light that the application did not reflect the applicant's requirements and the application and description of the proposed development was amended to that stated above in paragraph 1.1.
- 3.4. The following relevant planning history has been identified for the application site:

23/00077/73-Variation of Condition 02 of planning approval 21/01590/73A dated 18.03.2022 to allow an extension of opening hours to 08:00-22:30 once per month, on no more than 10 occasions per year for the purpose of bistro evenings, supper clubs and small events. APPROVED 18.04.2023

21/01590/73A-Variation of Condition 03 of approval 09/00241/FUL dated 11.06.2009 to set opening hours of the cafe including any hot food takeaway and the retail use as 08.00 to 18.00 Monday to Saturday and 08.00 to 17.00 on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day) (retrospective application). APPROVED 18.03.2022

21/01499/FUL- Siting on the service road and village green of outdoor seating for Dogh Cafe and sale of hot food for consumption off the premises (retrospective application). 18.03.2022. PART APPROVED/PART REFUSED. The decision granted planning permission for the siting on the service road of outdoor seating (2no. standard picnic benches of timber construction positioned to the front of the building) for Dogh Cafe and sale of hot food for consumption off the premises.

09/00613/COND- Discharge of Condition Nos. 04 and 05 of approval 09/00241/FUL dated 11.06.2009. APPROVED 13.07.2009. The conditions/approved details relate to the materials and finishes for the external staircase and windows and doors.

09/00241/FUL- Alterations to internal layout to increase retail area with cafe area adjacent, change of use of part of ground floor residential area to commercial kitchen, and sub-division of ground and first floor residential accommodation to form 1 no. one bedroom ground floor flat and 1 no. two bedroom first floor flat with access by erection of external staircase. APPROVED 11.06.2009.

08/00163/FUL- Change of use of shop to shop and cafe, including outside cafe seating area to front of building (retrospective application). APPROVED 24.11.2008. On 16 April 2009 details were approved in relation to conditions 4 (storage and disposal of refuse) and 6 (extent of outdoor seating).

4.0 Site and Surroundings

- 4.1. The application relates to a two-storey building located centrally within the village of Welburn. The building stands to the south of Main Street and occupies an elevated position in relation to the public highway which runs through the village. The building,

along with surrounding properties to the east and west, is set back from the public highway behind an area of open, grassed village green and private access ways.

- 4.2. The ground floor of the building is currently operated under the name 'Dogh' and is an established mixed use unit which provides a shop, café and hot food takeaway. The remaining part of the building to the rear and at first floor level is used as flats and a holiday let.
- 4.3. The site lies within the development limit of Welburn and is within the village Conservation Area. It is also within the Howardian Hills National Landscape (AONB). In addition to falling within land designated as village green the grassed areas to the front of the building which flank the access are within a Visually Important Undeveloped Area (VIUA).
- 4.4. The two storey building has a gable front elevation in brick with tile hanging on the first floor and a clay pantile roof. The front elevation at ground floor level comprises two large windows which flank a central doorway. There are two wooden picnic benches abutting the front, north facing elevation of the building flanking the main entrance door.
- 4.5. Properties either side of the application site are occupied for residential purposes (Cherry Tree House & White House). The dwelling immediately to the east (Cherry Tree House) is under the applicant's ownership and shares a rear, private driveway with the application site. St Annes Cottage is further to the east beyond Cherry Tree House. The Crown and Cushion Public House stands opposite the site to the north of Main Street and Pear Tree House is opposite to the north east.
- 4.6. There are several listed buildings in the vicinity of the site the nearest being the Grade II listed Cherry Tree House which is immediately adjacent to the east of the site and also Grade II listed Pear Tree House which stands opposite to the north-east of the site.

5.0 Description of Proposal

- 5.1. Variation of Condition 02 of planning approval 23/00077/73 dated 18.04.2023 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year.
- 5.2. Condition 02 currently states:

'The café (including any hot food takeaway) and retail use hereby permitted shall not be open to customers outside the following times - 08:00 - 18:00 hours Monday- Saturday and 08:00 - 17:00 hours on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day) with the exception of one occasion per month on no more than 10 occasions per calendar year where it is permitted for opening hours to be extended until 22:30 hours for the café and retail use (no hot food takeaway) of the premises for evening events. The owners/operators shall maintain an up-to-date register of evening event bookings that will be maintained at all times and shall be made available for inspection to an officer of the Local Planning Authority on request. The register shall include, but not be limited to, details of the date of the event, nature of the event and the number of attendees.'

Reason: To ensure that the amenities of nearby residents are not unreasonably affected and to satisfy the requirements of Policy SP20'.

- 5.3. The application requests that the wording of Condition 02 is varied to read as follows

(emphasis added):

*‘The café (including any hot food takeaway) and retail use hereby permitted shall not be open to customers outside the following times - 08:00 - 18:00 hours Monday- Saturday and 08:00 - 17:00 hours on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day) with the exception of on no more than **50 occasions per calendar year** where it is permitted for opening hours to be extended until 22:30 hours for the café and retail use (no hot food takeaway) of the premises for evening events. The owners/operators shall maintain an up-to-date register of evening event bookings that will be maintained at all times and shall be made available for inspection to an officer of the Local Planning Authority on request. The register shall include, but not be limited to, details of the date of the event, nature of the event and the number of attendees.*

Reason: To ensure that the amenities of nearby residents are not unreasonably affected and to satisfy the requirements of Policy SP20’.

- 5.4. The applicant has confirmed that following receipt of planning permission ref. 23/00077/73 on 18 April 2023 seven evening events were held in 2023 each on the third Friday of the month between June and December.
- 5.5. The applicant states that they “are confident that these events will not cause any undue disruption to members of the village, as we have been made aware of no complaints made following our previous 7 successful events”. The applicant has also explained that the bistro evening events have generated a lot of interest from customers and there is a demand for an increased number of evening dining events, including private dining.
- 5.6. The applicant seeks permission to increase the number of evening events permitted across the calendar year so to offer more private ticketed bistro style events as well as to allow customers to book the cafe for private dining.
- 5.7. The applicant has also provided an ‘Evening Event Management Plan’ (EEMP) as a supporting document accompanying the application. The EEMP (v.2.0) reiterates that, with the exception of Condition 02, all other conditions attached to the extant permission ref. 23/00077/73 will continue to be complied with. The EEMP also confirms agreement to the following:
 - *No more than 3 evening events per calendar week (Defined as Monday – Sunday).*
 - *No more than two consecutive evening events per calendar week.*
 - *No more than 6 consecutive Sunday events during the school holiday periods.*
 - *No additional external illumination to be provided for the evening events without prior approval from the Council.*
 - *We will continue to make customers aware that all disturbances must be kept to a minimum when arriving and leaving the premises, and that loud noises will not be tolerated.*
- 5.8. As per the extant permission evening events would involve opening to no later than 22:30 hours and all events would be contained within the building. There would be no music at the premises after 21:00 hours and no hot food takeaway during evening events. All events would be arranged via a pre-booked ticketing system (max. 25 persons) and the applicant would continue to keep a log of event bookings.

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 SP11 Community Facilities and Services
 Policy SP13 Landscapes
 Policy SP16 Design
 Policy SP19 Presumption in Favour of Sustainable Development
 Policy SP20 Generic Development Management Issues

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 2023
- National Planning Practice Guidance
- Howardian Hills AONB Management Plan 2019-2024

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 (prior to revised description of proposal)

7.2. **Welburn (Malton) Parish Council** No response received.

7.3. **Highways North Yorkshire** No response received.

7.4. **Environmental Health** No response received.

7.5. **Ellie Hook AONB Manager** No response received.

Re-consultation (revised application form, supporting statement and updated description of proposed development)

7.6. **Welburn (Malton) Parish Council** No response received.

7.7. **Highways North Yorkshire** No response received.

7.8. **Environmental Health** the increase in events if not mitigated, could lead to adverse impacts, however I feel that the proposal can be made acceptable by conditions. I would suggest that conditions be set to prevent more than 3 events per week with no more than two consecutive nights, that events on Sunday evenings are restricted to no more than 6 in school holiday periods, and that there is a monthly limit so that the 50 events are evenly spread, eg 6 per month. In order to minimise lighting impacts you may want to condition that no additional external illumination is

provided, without prior written approval. The LPA may wish to impose a condition requiring that windows and doors are kept shut to minimise noise breakout, and that the windows are covered (blinds/curtains) for night time events to reduce light spill at the front façade.

- 7.9. **Ellie Hook AONB Manager** Objects- Whilst we are fully supportive of the rural business within the village and recognise the growth of the business and service it provides to both residents and visitors, we have significant concerns about the potential for the applicant to host up to 50 occasions per calendar year and with no restrictions on number of events per month. This will inevitably impact further on the tranquillity of the village, residential amenity of existing and neighbouring occupiers, rural village character, noise levels and quality of evening dark skies. Furthermore, we have concerns regarding the impact of the proposal on the village green verges and typical rural village road network from parking associated with the proposal. The proposed times are not aligned with other eateries in the area, including those in much larger settlements, where the majority cease to operate during late evening and with clients having left the premises by approx. 21:00. The proposal to remove the restriction on number of events per month may result in significant cumulative disturbance across consecutive evenings. It is considered that the proposal subject to this s73 application will not enhance the village character, the village of Welburn and will detrimentally impact the special qualities of the designation including the tranquil character and green spaces within the village. I would suggest that it would seem more reasonable to ensure that disturbance is set at a more reasonable level, perhaps a maximum of two evening events per month, with no take away service and no evening events allowed on Sunday evenings, Christmas Day or Boxing Day. If this application, or a revised version with fewer evening events, is granted, there are strict conditions on noise and light pollution.

Further re-consultation (supporting statement- Evening Event Management Plan)

- 7.10. **Highways North Yorkshire** No objection- I note the proposed event types, exclusions and additional controls as set out in the Supporting Statement (v.2.0). It is also noted the existing conditions that the applicant is to comply with relating to the existing planning consent as mentioned on the first Supporting Statement dated 26/02/2024.

In general terms the comments I made in my consultation response dated 6 April 2023 (in relation to planning application 23/00077/73) apply in respect of this requested variation of condition.

From a highway authority perspective the issue relates to the impact the increased number of operational evenings would potentially have on the existing local highway network, given that the premises offers no on-site parking provision, particularly for visitors attending the evening function.

It is considered that, overall, such impact would be material to the immediate vicinity to a certain degree. This needs to be assessed against the general situation that exists through the village whereby some on-street parking does take place, generally at all times of the day and evening. On balance it is not thought that the additional opening evenings as quoted would change the on-street parking demand to a level that would be significantly detrimental to the operational capacity and safety of the highway.

However, it is also considered that the proposal now represents a maximum in respect of evening openings, and with reference to the amended planning application

forms submitted, any additional number that could potentially be applied for would not be supported by the highway authority.

No highway authority objections are therefore raised on the basis of the two submitted supporting statements, and appropriate planning conditions to secure the evening event management plan are recommended.

7.11. **Environmental Health** my main concerns regarding this application centre around the potential for noise and disturbance to neighbouring amenity. However, since evening events have been operating last summer, and the applicant has agreed measures to control spacing out of events, limiting operational hours and limiting disturbance from music, light, patrons etc, I feel that the effects are or can be mitigated to minimise disturbance. Accordingly, subject to the conditions regarding the evening event management plan, the review of such plan, and the condition for lighting, I have no objections to the granting of the above proposal. There are no concerns re odours, the type of food served and the requirement to disallow takeaways prevents this from being a significant disturbance.

7.12. **Ellie Hook AONB Manager** No response received.

Local Representations

7.13. In response to the initial proposal that sought an extension of opening hours to 08:00-22:30 daily all year round (no opening on Christmas Day or Boxing Day) the LPA received a total of 23 representations from local residents and members of the public of which 17 raised objections to the application and 6 supported the proposal. Full copies of all the representations received by the LPA can be accessed via the Council's Online Planning Register.

7.14. Following receipt of a revised application form, supporting statement and amended description of the proposal which requests opening until 10:30pm on no more than 50 occasions per year the LPA completed a further consultation exercise with local residents.

7.15. In response the LPA received a total of 24 representations from local residents and members of the public all of whom raise objections to the application. Full copies of all the representations received by the LPA can be accessed via the Council's Online Planning Register.

7.16. **Objections**

The reasons given in objection are as follows:

- There is no need for Dogh to duplicate this service for more evenings than currently allowed.
- No car park for the café
- Increase in traffic and congestion
- Increase in inconsiderate parking blocking the service road extending into the evening
- Pedestrian safety on dark nights
- Loss of amenity for residents- Noise disturbance and nuisance
- Noise from slamming car doors, loud speaking etc into the late evening
- Threatens the peace and privacy of residents
- Dogh continues to destroy the ambience, the tranquillity, and amenities of this once aesthetically pleasing village landscape on a daily basis
- Increase in litter
- Cooking odours will continue into the late evening

- Disruptive customer behaviour
- Detrimental effect on the character and tranquillity of this important Howardian Hills village
- Potential for several consecutive late night dining events terminating at 22.30 hours
- An excessive number of late night events will be allocated to Bank holidays, school holidays, during warmer weather and the lighter evenings
- Division of the 50 evening events limiting the of number of events per week, or months, will not reduce the impact on neighbours and the village, as the number still remains at 50
- The business has outgrown the premises it should move to a more suitable location where expansion does not impinge on the whole neighbourhood
- The wrong business to develop in the wrong location
- The character of the Conservation Area and this historic village is being ruined by all the traffic and trade generated by Dogh

There are objections which raise matters which are not material planning considerations or are not relevant to the determination of the application as follows:-

- Speculation that there might be future applications to increase the number of days Dogh can operate with extended opening hours
- Speculation that the applicant will not comply with the terms of any permission granted.
- That deliveries can commence from 4am.
- Objections to existing day time operations and impacts
- A request for the existing late openings be rescinded

7.17. **Support**

The reasons given in support are as follows:

- Dogh is a great local business which attracts locals as well as people from surrounding areas. Additional events at the bistro would be an asset to the area and would also bring the community together in a lovely setting with delicious food.
- The cafe is an asset to the village and is respectful of its neighbours especially when holding events outside of its normal hours.
- The proposal would allow the continued growth of a small business who produce a fantastic offering for the local area. Recent times have proven difficult for some businesses and would provide the flexibility to open further hours that will aid both local residents and also locals from neighbouring areas.
- The café is run and supported by mature, responsible local people
- There are residents who enjoy having Dogh in the village and it provides an opportunity for socialising with local people and patrons of the café.

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;
- Impact on amenity;
- Impact on the Howardian Hills National Landscape (AONB); and
- Highways safety.

10.0 ASSESSMENT

Principle of the Development

- 10.1. Paragraph 88 of the NPPF (2023) sets out national policy supporting a prosperous rural economy. It states *“Planning policies and decisions should enable (inter alia): d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship”*. Policy SP11 of the Local Plan Strategy seeks to protect and support services and facilities that contribute towards the vitality of local communities.
- 10.2. The applicant is a small business and local employer. The applicant seeks permission to increase the number of evening events permitted across the calendar year so to offer more private ticketed bistro style events as well as to allow customers to book the cafe for private dining. The proposal follows on from several events held in 2023 which the applicant has explained were successful, popular and without complaint. The applicant states *“our main goal for the business is to ensure that we are able to bring in sufficient revenue to maintain these employees and pay a sufficient and fair wage. Our business plan also seeks to reinvest any profits into the business to improve our equipment, make more sustainable choices, and maintain our high quality of ingredients. At heart, we are a chef and a food lover, and want to create a space where good quality food is celebrated. We feel that the venture into evening events supports this and allows us to expand the business in an appropriate manner.”*
- 10.3. The evening events are primarily food and drink based events which are currently permitted to take place between the hours of 18:00-22:30 Monday- Saturday and 17:00-22:30 on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day) on a set number of occasions per month/year. The evening events diversify the offering at the premises and do not depart from the lawful use of the building as a shop, café and hot food takeaway.
- 10.4. The reasoning for the increased number of evening events is understood and accords with national and local policy, in terms of supporting the rural economy, employment and the provision of local services. As such it is considered that the proposal is acceptable in principle in line with the principles of Policy SP11 and the NPPF subject to consideration of the impact upon local and residential amenity, the National Landscape (AONB) and highway safety.

Impact on amenity

- 10.5. The main consideration in the assessment of this variation of condition application is whether the increase in the number of evening events from 10 occasions to 50 per calendar year and the removal of the one event monthly limit would result in harm to the amenity of occupants of nearby residential properties. The proposal, if approved, would allow for an increase in the number of bistro evenings, supper clubs and small private dining events across the year.
- 10.6. The application site is in close proximity to residential receptors although it is relevant to note that it stands opposite a pub/restaurant which has later opening hours and on a much more frequent basis.

- 10.7. A number of local residents have raised concern in relation to potential harm to residential amenity arising from the increased number of evening events. The reason for Condition 2 is: *'To ensure that the amenities of nearby residents are not unreasonably affected and to satisfy the requirements of Policy SP20'*.
- 10.8. Policy SP20 (Generic Development Management Issues) of the Ryedale Plan- Local Plan Strategy (2013) states: *"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 to be an overbearing presence"*.
- 10.9. At present the extended hours of opening (until 22:30 hours) on 10 occasions a year allows the applicant to host food and drink based events such as bistro evenings and supper clubs. The applicant has highlighted that the events held in 2023 were popular and that there is also demand for small private dining events hence this application to increase to 50 events per year with no monthly restriction.
- 10.10. The applicant does not seek to vary any of the other extant controls set by permission ref. 23/00077/73. In summary evening events would continue to be limited to opening til no later than 22:30 hours and all events would be contained within the building. There would be no music at the premises after 21:00 hours and no hot food takeaway during evening events. All events would be arranged via a pre-booked ticketing system (max. 25 persons) and the applicant would continue to keep a log of event bookings. The relevant conditions would be carried forward should permission be granted.
- 10.11. The applicant has reiterated that they take steps to encourage customers to be mindful of neighbours and encourage customers to minimise noise when departing the premises. The LPA has received evidence to show that appropriate signage has been installed on the inside of all external doors to remind customers to leave quietly and respect neighbours. The applicant supporting statements explains *"We take the current concerns of the village very seriously, and as such do ensure that all attendees of events at Dogh are made aware that disturbances must be kept to a minimum when entering and exiting the building, we also keep our meal service between 7pm and 9pm, to ensure all guests have left before the 10.30pm curfew that we currently have"*.
- 10.12. The applicant highlights that, to date, seven evening events have been held without any complaints. This has been verified by the Council's Senior Enforcement Officer and Senior Environmental Health Officer who have confirmed that there were no complaints about noise disturbance, anti-social behaviour or similar, relating to the extended opening hours of Dogh, Welburn between April and December 2023.
- 10.13. It is acknowledged that there is genuine concern that the proposed increase in the total number and frequency of evening events could be detrimental to residential amenity. It is considered that the nature and scale of the evening events combined with the applicant's management of such events and the requirements of the planning conditions have been effective at minimising potential disturbance to date.
- 10.14. The Council's Environmental Health Officer (EHO) has raised no objections to the increase in the number of events from 10 to 50 per year or the removal of the monthly limit. However, the EHO acknowledges the potential impact of noise and disturbance on neighbouring amenity and has recommended that the evening events are suitably spaced to reduce the intensity of impact.

- 10.15. The EHO's suggestions, as set out in their consultation response, have been considered by the applicant and incorporated into an 'Evening Event Management Plan' (EEMP). The EEMP commits the applicant to no more than 3 evening events per week with no more than two consecutive nights per week and no more than 6 consecutive Sunday events during the school holiday periods.
- 10.16. The EHO states that *"since evening events have been operating last summer, and the applicant has agreed measures to control spacing out of events, limiting operational hours and limiting disturbance from music, light, patrons etc, I feel that the effects are or can be mitigated to minimise disturbance"*. The EHO has no objections to the conditions requiring compliance with the EEMP along with a mechanism to review the EEMP if required. In order to minimise lighting impacts a condition will be imposed to restrict any additional external illumination at the site without prior written approval.
- 10.17. There have been concerns from local residents raised in relation to cooking odours from the premises. The EHO, however, does not share those concerns noting that the type of food served and exclusion of hot food takeaway from evening events prevents this from being a significant disturbance.
- 10.18. The applicant has demonstrated that evening food and drink based events can take place without complaint. The proposed increase in the number of such events across the calendar year is equivalent to approximately one evening event per week although without suitable scheduling controls adverse impacts on local residents could be intensified at popular times of the year.
- 10.19. It is considered that the increase in evening events can be accommodated and evenly distributed to minimise any possible nuisance and disturbance. On the basis that the total number and the frequency of events will be controlled as per the applicant's proposal it is not anticipated that the additional evening events would introduce any unacceptable levels of noise, nuisance or disturbance during unsociable hours.
- 10.20. It is considered that the proposal would not have an unacceptable adverse impact upon the amenities of neighbouring properties and would not conflict with the existing ambience of the immediate locality and the surrounding area and Policy SP20 is not infringed.

Impact on the Howardian Hills National Landscape (AONB)

- 10.21. The application site is within the Howardian Hills National Landscape (Area of Outstanding Natural Beauty). National planning policy (paragraph 182 of the NPPF) states that *"Great weight should be given to conserving 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 landscape and scenic beauty"*. Policy SP13 of the RPLPS requires that the proposed development does not detract from the natural beauty and special qualities of landscapes. Tranquillity is one of the special qualities of the Howardian Hills National Landscape.
- 10.22. The AONB Manager, in her response, has highlighted that *"the role of the Howardian Hills AONB Partnership is to make sure that any proposals within the National Landscape seek to 'further the purposes of the designation' a duty delivered by us on behalf of our relevant local authorities. The Levelling Up and Regeneration Act has strengthened the duty on relevant authorities when considering planning applications within the National Landscape"*.

- 10.23. The AONB Manager has lodged an objection to the increased number of evening events citing adverse impacts on the tranquillity of the village, green spaces within the village and the quality of evening dark skies.
- 10.24. The AONB Manager, however, does acknowledge that the Howardian Hills AONB Partnership are fully supportive of the rural business within the village and recognise the growth of the business and service it provides to both residents and visitors. It is noted that the AONB Management Plan 2019-2024 states that *“The loss of services and facilities within villages should be resisted where appropriate, with potential new, innovative and rejuvenated businesses being supported”*. It is considered that this is an example of an innovative and rejuvenated small business and the hosting of evening events has the potential to positively contribute towards the vibrancy of the village.
- 10.25. The AONB Manager has suggested the adverse impacts could be reduced if the events are appropriately spaced. The EEMP does seek to address the AONB Manager’s concern that the removal of the restriction on number of events per month may result in significant cumulative disturbance across consecutive evenings.
- 10.26. The evening events are small scale, low key and would be wholly contained within the building. Furthermore, it is not considered that the additional evening events would directly result in vehicles being parked on the village green verges.
- 10.27. The site is within the centre of the village close to a number of residential properties and adjacent to the main road which links to the A64. The site is also opposite the pub and near to the village hall in an area where activity and general comings and goings on an evening would not be considered unusual. The tranquil character of the National Landscape (AONB) is an important quality but the application site is not within an area that could be reasonably described as having high levels of tranquillity. In this regard it is not deemed to be an incompatible proposal or that which would unduly depart from the existing ambience of the area.
- 10.28. With regard to the potential for light pollution the effect of illumination from within the building would be minimal and a condition is to be imposed in relation to external lighting at the site and that would address the concerns of the AONB Manager.
- 10.29. As stated above there are no objections from the EHO and, subject to the recommended conditions, it is considered that the proposed additional evening events would not result in any unacceptable nuisance, disturbance or pollution to neighbours subject to the controls set by the EEMP to manage the frequency and spacing of events.
- 10.30. It is reasonable to conclude that despite the annual increase in the number of evening events the nature of the events would remain occasional and not an often occurrence and, overall, would have a negligible impact on the tranquillity of the area. It is considered that the proposal would not be inappropriate within this village setting and can be accepted in this designated landscape without conflicting with national or local planning policy in relation to protecting the wider amenity and nocturnal ambience of the Howardian Hills National Landscape (AONB).

Highways safety

- 10.31. Policy SP20 of the RPLPS (2013) 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”*.

- 10.32. Paragraph 115 of the NPPF 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”*.
- 10.33. The Local Planning Authority has received objections from local residents that this proposal will result in increased traffic, congestion and parking pressures.
- 10.34. The existing premises do not benefit from any on-site staff/visitor car parking provision and largely rely upon on-street parking on Main Street. The proposal would mean there is an increase in the number of occasions through the year when customers would travel to and from the premises on an evening. It is anticipated that for most of the evening events the majority of customers would travel to the premises by private vehicle.
- 10.35. The applicant has previously confirmed that there is no overlap between the usual day time custom (shop, café, takeaway) and the evening events are dine-in food and drink based only (no takeaway) which are pre-arranged and ticketed. The evening events are managed in terms of visitor numbers (max. 25 persons), booking arrangements and no outside seating is used.
- 10.36. The Local Highway Authority (LHA) notes the event types, exclusions and additional controls as set out in the Supporting Statement and also that the existing conditions would continue to be complied with.
- 10.37. The LHA states that the impact of the proposal on the existing local highway network would be material to the immediate vicinity to a certain degree. This needs to be assessed against the general situation that exists through the village whereby some on-street parking does take place, generally at all times of the day and evening. The LHA is of the view that, on balance, the additional opening evenings would not change the on-street parking demand to a level that would be significantly detrimental to the operational capacity and safety of the highway.
- 10.38. The LHA is also of the view that the current proposal represents a maximum in respect of evening openings and any future application for additional evening openings is unlikely to be supported by the LHA.
- 10.39. The LHA conclude that no objections are raised on the basis of the two submitted supporting statements, and appropriate planning conditions to secure the evening event management plan (EEMP) are recommended.
- 10.40. The nature of the evening events remains small scale and the visitor numbers involved and level of activity is not expected to give rise to a material detrimental impact on the operation of the public highway through the village on an evening. The increase in the total number of events is mitigated by the EEMP which controls the frequency of events.
- 10.41. It is considered that the increase in the number of occasional evening events would not give rise to any unacceptable intensification of use or conditions, either individually or cumulatively, that would be detrimental to road safety or capacity in compliance with Policy SP20 and the NPPF.

Conditions

- 10.42. Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission,

which remains intact and un-amended. For the purpose of clarity the conditions imposed on the earlier approval continue to have an effect and are relevant and as a result are carried forward. As explained above it is considered necessary and in the interests of amenity to impose additional conditions to secure compliance with an 'Evening Event Management Plan' and to prohibit external lighting at the site without prior written approval.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 Planning policy recognises the economic and social role played by village facilities such as the café/shop/takeaway in Welburn. The premises are well established in the village and generate employment. The owners/operators highlight that the recent diversification into hosting evening food and drink based events has been popular and there is a sufficient level of interest to explore an increased number of events across the calendar year.
- 11.2 The Howardian Hills AONB Partnership are fully supportive of the rural business within the village and recognise the growth of the business and service it provides to both residents and visitors. It is considered that the business is a type supported by the AONB Management Plan 2019-2024 and proposal would contribute towards the vibrancy and vitality of the village.
- 11.3 The LPA is aware of the local concern and acknowledges that it is important to strike a balance between the sustainable growth of an established village business whilst considering the impact of that growth on local residents and the ambience of the area.
- 11.4 In the planning balance, weight is afforded to the benefits of the additional hours of trading and the increase in custom which contributes towards the sustainability of this village facility. The total number of evening events and the frequency would be controlled and taking account of the character, duration and intensity of the events it is considered that there would not be unacceptable impacts on the ambience of the village or living conditions of neighbours.
- 11.5 There have been no objections raised by the Environmental Health Officer and it is considered that the concerns of the AONB Manager can be mitigated to an acceptable degree by the EEMP and the condition in relation external lighting. There are no objections from the Local Highway Authority in terms of highway safety and capacity although the LHA response notes that this is likely to be the maximum in respect of evening openings that the LHA could find acceptable.
- 11.6 Overall, it is considered that there is an absence of any materially adverse impacts on residential amenity, highway safety or the special qualities of the Howardian Hills National Landscape. As a result, taking account of the economic benefits of the occasional and controlled number of evening events and the absence of material harm to amenity, the conclusion of the balancing exercise is favourable to the proposal.

12.0 RECOMMENDATION

- 12.1 That planning permission be **GRANTED** subject to the conditions listed below.

Recommended conditions:

- 1 Notwithstanding the provision of any Town & Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on Drawing No. 2009-02 BR3 for parking spaces, turning areas and access shall be kept available

for their intended purpose at all times.

Reason: In accordance with Policy SP20 and to ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.

- 2 The café (including any hot food takeaway) and retail use hereby permitted shall not be open to customers outside the following times - 08:00 - 18:00 hours Monday-Saturday and 08:00 - 17:00 hours on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day) with the exception of on no more than 50 occasions per calendar year where it is permitted for opening hours to be extended until 22:30 hours for the café and retail use (no hot food takeaway) of the premises for evening events. The owners/operators shall maintain an up-to-date register of evening event bookings that will be maintained at all times and shall be made available for inspection to an officer of the Local Planning Authority on request. The register shall include, but not be limited to, details of the date of the event, nature of the event and the number of attendees.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected and to satisfy the requirements of Policy SP20.

- 3 The evening events hereby permitted shall only be operated with a pre-book ticketing system (no walk-ins) that ensures that there is a maximum of 25 persons at any event.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected in compliance with Policy SP20.

- 4 During the evening events hereby permitted there shall be no live music or vocals at the premises after 21:00 hours.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected in compliance with Policy SP20.

- 5 The evening events hereby permitted shall only be held within the area outlined in red on the existing floor plan drawing ('licensed area') which accompanies application ref. 23/00077/73. There shall be no use of the external seating (2no. benches positioned at the front of the building) during the evening events hereby permitted.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected in compliance with Policy SP20.

- 6 The two residential units hereby permitted shall be, and shall remain, under the ownership of the owner of the retail unit and tearooms and shall not be sold off separately.

Reason: The proximity of the mixed uses, access from the public highway and shared amenity space are such that the separation of the residential from the commercial (or vice versa) requires further consideration to be given in accordance with Policy SP20.

- 7 The development hereby permitted shall be carried out in accordance with Drawing No. 2009-02-BR3 received by the Local Planning Authority on 18 May 2009.

Reason: For the avoidance of doubt and to ensure that the preparation area and tearoom do not encroach on the retail area, and to ensure the satisfactory development of the site in accordance with the approved plans, and in order to comply with the requirements of Policy SP20.

- 8 No part of the site outside any building shall be used for the storage or display of any goods or materials without the prior approval in writing of the Local Planning Authority. Any goods or materials currently displayed outside the existing building shall be removed within 28 days from the date of this planning permission, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the appearance of the area is not prejudiced by the external storage of materials and to protect residential amenities, and in order to comply with the requirements of Policy SP20.

- 9 The ground floor toilet identified on Drawing No. 2009-02-BR3 shall only be used by customers and staff of the café and shop and for no other purpose.

Reason: To protect the amenities of adjoining properties in accordance with Policy SP20.

- 10 There shall be no deliveries to the café/shop/takeaway premises prior to 04:00 hours each day.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected and to satisfy the requirements of Policy SP20.

- 11 The development hereby approved shall be operated in full accordance with the Evening Event Management Plan (v.2.0) dated 26.02.2024, unless a variation is first agreed in writing by the Local Planning Authority under the terms of Condition 12 below.

Reason: In the interests of protecting the existing amenities of neighbouring occupiers and to satisfy the requirements of Policies SP16 and SP20.

- 12 The approved Evening Event Management Plan shall be reviewed in the event that the Local Authority receive a justified neighbour complaint that the terms of the EEMP have been breached.

Reason: In the interests of protecting the existing amenities of neighbouring occupiers and to satisfy the requirements of Policies SP16 and SP20.

- 13 No additional external lighting is permitted within the application the site, including lighting for site security purposes without prior written approval by the Local Planning Authority.

Reason: In the interests of the reduction of light pollution in compliance with Policy SP20.

INFORMATIVE

'Evening events' are the primarily food and drink based events which are permitted to take place between the hours of 18:00-22:30 Monday- Saturday and 17:00-22:30 on Sundays and Bank/Public Holidays (no opening on Christmas Day or Boxing Day) as per the requirements of Condition 2. Such events comprise bistro evenings, private hire for dining events and seasonal events (no hot food takeaway).

Target Determination Date: 16.02.2024

Case Officer: Alan Goforth, alan.goforth@northyorks.gov.uk

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North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

21 MARCH 2024

23/00348/MFUL - APPLICATION FOR THE ERECTION OF 13NO. DWELLINGS COMPRISING 7NO. THREE BEDROOM DWELLINGS, 2NO. TWO BEDROOM DWELLINGS AND 4NO. FOUR BEDROOM DWELLINGS WITH ASSOCIATED INFRASTRUCTURE, GARAGING, PARKING AND LANDSCAPING ON LAND OFF ASPEN WAY, SLINGSBY, MALTON ON BEHALF OF W & W ESTATES

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a planning application for the erection of 13no. dwellings comprising 7no. three bedroom dwellings, 2no. two bedroom dwellings and 4no. four bedroom dwellings with associated infrastructure, garaging, parking and landscaping on land off Aspen Way, Slingsby Malton.
- 1.2 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be **GRANTED** subject to any further requirements of the Local Highway Authority and conditions (to follow) and completion of a Section 106 legal agreement with terms as detailed in Table 1 (contained within Section 10.69 of this report).

- 2.1. The proposed development comprises the erection of 13no. dwellings comprising 7no. three bedroom dwellings, 2no. two bedroom dwellings and 4no. four bedroom dwellings with associated infrastructure, garaging, parking and landscaping.
- 2.2. The application site amounts to approximately 0.58 hectares and is land off Aspen Way, Slingsby. The site is situated north of the B1257 at the south eastern edge of Slingsby approximately 6 miles west of Malton. The site is within the development limits of Slingsby 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 SD11) in the Ryedale Plan- Local Plan Sites Document (2019) and a relatively recent grant of outline planning permission for residential development at the site.
- 2.4. The main issues through the course of the application have been the design, access, residential amenity, highway safety and drainage. It is considered that these matters have been adequately addressed.

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/>
- 3.2. The site is allocated for residential development under Policies SD2 and SD11 within the Ryedale Plan- Local Plan Sites Document. The Sites Document was formally adopted by the Council in June 2019 and it forms part of the Council's statutory Development Plan.
- 3.3. The following relevant planning history has been identified for the application site and the adjacent land to the west:

ZE23/05729/MFUL- Erection of 26no. dwellings comprising 12no. two bedroom dwellings, 11no. three bedroom dwellings, 2no. four bedroom dwellings and 1no. one bedroom dwelling with associated access road, landscaping and parking. On 18 January 2024 Planning Committee resolved to grant planning permission subject to the completion of a S106 agreement.

23/00037/MREM- Erection of 26no. dwellings (outline approval 18/00686/MOUT dated 12.03.2020 refers) WITHDRAWN.

ZE23/00431/73M- Variation of conditions 19, 20, 21, 22, 23 and 48 of planning approval 18/00686/MOUT dated 12.03.2020. WITHDRAWN.

18/00686/MOUT- Residential development of up to 38no. dwellings with formation of access off Aspen Way (site area 1.75ha) - approval sought for access. APPROVED 12.03.2020. The planning permission is accompanied by a Section 106 agreement in relation to affordable housing (on-site & financial contributions including number, mix, size and tenure of affordable units) and public open space (completion, management and maintenance).

4.0 Site and Surroundings

- 4.1. The site the subject of the outline consent (c.1.7ha) is in two separate ownerships and this application relates to the eastern field with a residential development to be delivered on the remainder of the land to the west (under the ownership of Castle Howard Estates Limited).
- 4.2. The application site is 0.58 hectares in size and roughly rectangular shaped comprising the eastern third of the site the subject of the outline permission (see planning history at paragraph 3.3 of this report). The site is situated north of the B1257 at the south eastern edge of Slingsby approximately 6 miles west of Malton. The site is within the village development limits and forms part of the residential land allocation identified within the Ryedale Plan- Local Plan Sites Document (2019).
- 4.3. There are relatively modern housing developments to the north (bungalows on Aspen Way) and west (semi-detached two storey dwellings on Balksyde). This area is relatively open in character, with a gentle sweeping rise of land in a southerly direction to the public highway (B1257). This site is adjacent to the boundary of the Howardian Hills National Landscape (AONB) which is on the southern side of the B1257. The land to the south is open fields and a caravan and camping park is to the east.
- 4.4. The site currently comprises agricultural land used for grazing purposes and the site boundary is delineated by hedgerow planting which on the western side contains a

prominent, mature Sycamore (protected by TPO). The site is 65 metres east of the boundary of the Slingsby Conservation Area.

- 4.5. The land is classified as being both of Grade 2 and Grade 3 agricultural land in terms of its agricultural productivity and is used for grazing. The site is within Flood Zone 1.

5.0 Description of Proposal

- 5.1. Full planning permission is sought for the erection of 13no. dwellings comprising 7no. three bedroom dwellings, 2no. two bedroom dwellings and 4no. four bedroom dwellings with associated infrastructure, garaging, parking and landscaping.
- 5.2. The application site is the eastern part of the outline permission site comprising approximately one third of the overall site with the western and central parts being in separate ownership and not included in this application. The application site is proposed to be developed at a density of 22 dwellings per hectare.
- 5.3. The total mix of dwellings proposed consists of: 4no. 4bed 7person units, 7no. 3bed 5person units and 2no. 2bed 4person units. The range of 13 dwellings proposed comprises two storey detached (1no.) and two storey semi-detached (12no.).
- 5.4. The dwellings are to be constructed from a mix of stone (70%) and brick (30%) with a mix of clay pantile and slate coverings to the pitched roofs.
- 5.5. The application is accompanied by detailed drawings of the individual dwelling types together with indicative street scene visuals. The dwellings would have either narrow or wide frontages ranging from 5.1 metres to 10 metres in width. The gable depths range from 8.9 metres to 9.7 metres. In terms of height the dwellings are two storey with the eaves heights ranging from 4.9 metres to 5.5 metres.
- 5.6. Each dwelling would have off-street parking and private amenity space, along with access to communal open space within the scheme.
- 5.7. Application plans identify one access connection point between the two fields/sites which would align with the northern link shown on the approved layout for application ref. ZE23/05729/MFUL (the central and western part of the outline permission site). This demonstrates how the residential development of the eastern field can be delivered with access through the central and western parts of the adjacent land (outside of application site) from the point of access from Aspen Way in line with the site Development Principles (Policy SD11).
- 5.8. The proposed site layout plan also makes provision for vehicular access to the application site direct from Aspen Way to the north (between numbers 12 and 14 Aspen Way). It is proposed that once the central and western parts of the adjacent land the subject of application ref. ZE23/05729/MFUL comes forward and the aligned northern access point is delivered, the proposed vehicular access from the eastern parcel direct to Aspen Way would then be downgraded to a pedestrian/cycle access. The applicant proposes that this is controlled via an obligation within the Section 106 legal agreement to this application or through including an appropriately worded planning condition.
- 5.9. A total of 4 of the 13 dwellings (30.7%) will be provided as affordable units and remainder of 0.55 of a unit will be paid as a commuted sum to the Council to meet the 35% policy requirement (4.55 units).
- 5.10. The 4no. affordable units comprise:

2no. 3 bed 5 person dwelling (plots 10 & 13)
 2no. 2 bed 3 person dwellings (plots 11 & 12)

- 5.11. The application is accompanied by a Planning, Design and Access Statement; Flood Risk Assessment; Trial hole and soakaway testing report; Stage 1 Desk Study report and Hydrogeological Risk Assessment; Extended Phase 1 Habitat Survey; Preliminary Ecological Appraisal; Habitat Condition Assessment; Biodiversity Metric calculations; Arboricultural and Landscape Report; Minerals Statement; and an Archaeological Evaluation.

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 SP13 Landscapes
 Policy SP14 Biodiversity
 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 (1.71ha) has an indicative yield of 36 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 SD11 (Housing Allocation) which sets out the Development Principles applicable to the site. These principles are drawn from information provided by the applicant as part of the local plan process. It states that detailed proposals for the development of the site shall include:

- An indicative yield of 36 dwellings
- comprehensive scheme for both fields, which could be phased
- retention of hedge to boundary with B1257
- retention of mature trees lining the Balk and suitable landscape/open space buffer along the western boundary of the site in order to ensure the protection of these trees

- vehicular access from Aspen Way to extend up the boundary with the eastern field, so as to ensure unfettered access of both fields
- pedestrian and cycle only access to the Balk and the Street
- Scale of buildings to be limited to one and two storey heights
- Well-designed streets and spaces
- sustainable drainage system to be integrated into design
- Technical 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
- The opportunity should be taken to enhance the entrance to the village and the scale and design of the development should relate sensitively to the Conservation Area
- Appropriate archaeological evaluation and mitigation as detailed in Appendix 1
- 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 2023
 - National Planning Practice Guidance
 - National Design Guide 2021
 - Slingsby, South Holme & Fryton Village Design Statement SPD 2016

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. **Slingsby Parish Council** have serious concern regarding the phased approach of development. The initial planning application (outline approval 18/00686/MOUT dated

12.03.2020) assumed that the whole site would be developed as one phase and as such, the Parish Council had no objections. This application could be developed on a different timescale to the other application by a different developer. The new application makes no reference to the integration or timescales of the second phase of development. This raises several significant issues regarding the initial development and the completion of landscaping, utilities etc as well as the visual impact of an unfinished or incomplete site. Without guarantees that the whole site will be developed to a satisfactory standard in a timely manner, it is impossible to give the support to any part thereof.

The affordable housing provision has been placed together. To achieve better social cohesion, dispersing the affordable housing across the whole of the site would be much preferable.

In the design and access statement, it references a local farm shop. Slingsby does not have a farm shop and any development would add greater strain to the limited resources and amenities that do exist. Similarly, the local village school is currently at capacity and some children living in the parish do not have places at Slingsby school. Additional family homes at the proposed number would add even greater strain and competition for limited places.

The village has ongoing issue with surface water flooding and the addition of significant number of houses at the elevated south end of the village is likely to have increased surface flooding impacts on the lower lying areas of the village, predominantly Railway Street. The Ryedale District Plan 2013 page 109, section 6 referencing utilities in service villages identified that Slingsby had 'no current capacity' and 'upgrading will be required' with respect to sewers.

The Parish Council has a particular concern regarding the lack of detail over the future management and liability of the green spaces, trees and hedges created by both applications. There is little reference to the process by which existing trees and hedges need regular maintenance, and the new landscaping will be managed, and maintained. If it is to come under a management company with shared responsibility lying with the new residents, full planning, risk assessment and work plans (including liability and insurance details) should be defined.

There are also strong concerns from within the village as to the increased stress on already busy roads and the amount of traffic more houses will bring. Adding another access point to potentially later change to a pedestrian/cycle route will allow additional traffic further into Aspen Way increasing unnecessarily quiet cul de sac. The Balk is a relatively narrow road, which takes the majority of the traffic in and out of the village, including all heavy goods and agricultural vehicles. A positive step for the developers would have been to address this issue and look at ways of maximising the flow of traffic through the Balk.

Finally, the parish council would like to see a clearer awareness of and mitigation strategy for the buried archaeology likely to be encountered on the site. The Balk is located within a highly sensitive archaeological area, between two large, nationally important scheduled areas (NHLE Iron Age barrow cemetery to the east and NHLE 1004178 Slingsby Castle, to the west). In particular, the site lies along the line of the Iron Age trackway and barrow cemetery to the east, as identified by Historic England's Howardian Hills Aerial Mapping project (HE NMP p.15) fig.1. The trackway lies directly in the path of the proposed development, yet no mention is made of its significance in the Design and Access Statement and there are no details of the findings made during preliminary explorations of the site last year to mirror the ecology reports submitted as part of this reserved matters application. We note that Historic England as a Statutory Consultee has expressed concerns about the

absence of clear reference to archaeological mitigation under the terms of the NPPF (para 194) and the Listed Buildings and Conservation Areas Act (1990) 72(1) and 38(6) and would repeat their request for reassurance that the original archaeological conditions apply and will be adhered to in the revised proposals.

We ask the Planning Authority to take our concerns about a two-site approach very seriously as this could have a long-lasting effect on the visual amenity of Slingsby along with the residents who will have to live through a two scheme build.

7.3. **Highways North Yorkshire** request further information/amendments as follows:

- Request a swept path analysis for the proposed layout, both for service vehicle access/turning and domestic vehicle access into and out of the various private driveways.
- On-plot parking provision should be in accordance with the adopted standards- 4-beds should be provided with 3 no. car parking spaces as a minimum.
- The close proximity of the dwelling in plot 6 and car parking spaces may have an impact on access / window opening relative to vehicles being parking.
- The carriageway and footway link into the adjacent development site to the west must be of sufficient size a) to match that of the adjacent road layout, both in width and position, b) enable satisfactory and safe service vehicle access into the proposed estate road, always bearing in mind that this should be the principal route of access in compliance with the conditions and approved access plan set out on the outline planning application 18/00686/MOUT. In the opinion of the highway officer only the northern-most link needs to be safeguarded.
- Individual driveway drainage arrangements need to be shown for Plots 7 and 8.

7.4. **Housing Services** Supports the delivery of 35% affordable homes (4 out of the 13 dwellings). A commuted sum of 0.55 of a unit is required to complete the provision and a further additional financial contribution equivalent to a further 5%. The proposed mix of house types reflects local housing need and the developer has agreed that the units would meet nationally described space standards (NDSS). The Council's Housing Officer requests that the tenure is 1 x 3 bedroom unit as Intermediate/Shared Ownership tenure with the rest social/affordable rent.

7.5. **Archaeology Section** Recommend archaeological mitigation recording and conditions.

7.6. **North Yorkshire Education Authority** the impact on education provision has been assessed and an education financial contribution calculated (c.£55k) to be requested via Community Infrastructure Levy (CIL).

7.7. **Designing Out Crime Officer (DOCO)** makes suggestions and recommendations in relation to providing a safe and secure environment for all users (distribution of affordable housing, parking, lighting and boundary treatments (public/private space)).

7.8. **Historic England** In this case we are not offering advice.

7.9. **NYCC Natural Services** A new Preliminary Ecological Appraisal is required along with a plan to demonstrate how the applicant would deliver net gains for biodiversity in line with the requirements of the NPPF.

- 7.10. **Flood Risk (LLFA)** The submitted documents are limited and the LLFA recommends that the applicant provides further information before any planning permission is granted. The following should be submitted and approved by the Local Planning Authority: microdrainage calculations; run of destination; volume control; exceedance plan; and maintenance plan
- 7.11. **Yorkshire Water Land Use Planning** Recommend condition to ensure development carried out in accordance with the Flood Risk Assessment.
- 7.12. **Tree & Woodland Officer** No response received
- 7.13. **Building Conservation Officer** No response received
- 7.14. **NYC Minerals and Waste** No response received
- 7.15. **Environment Agency** No response received
- 7.16. **Vale of Pickering Internal Drainage Boards** No response received
- 7.17. **Ellie Hook AONB Manager** No response received
- 7.18. **Environmental Health** No response received

Re-consultation (Ecology and BNG information & further highways and drainage information)

- 7.19. **Slingsby Parish Council** has several significant concerns with the plans in its current form. As such we feel there needs to be detailed planning obligations (section 106) attached to any granted permission to ensure development takes place efficiently and minimises impact on existing residents.

The Parish Council along with all residents consulted have serious concern regarding the phased approach of development. The initial planning application for this site assumed that the whole site would be developed as one phase and as such, the Parish Council had no objections. The new application makes no reference to the integration or timescales of the neighbouring phase of development. This raises several significant issues regarding the initial development and the completion of landscaping, utilities etc as well as the visual impact of an unfinished or incomplete site. Without guarantees that the whole site will be developed to a satisfactory standard in a timely manner, it is impossible to give the support to any part thereof. It is hoped by all in the Parish that the planning authority (NYC) will subject any planning permission to very specific planning obligations (section 106) to ensure the whole site (APPLICATION NO: 23/00348/MFUL and 23/05729/MFUL) are managed either as one post development or at the very least, complementarily.

The main concern of residents on Aspen Way is the prospect of the increase in traffic via the proposed access point between 12 and 14 Aspen Way. The adjacent site has had their access point approved closer to the entrance to Aspen Way and given that their road system abuts this application on the eastern boundary, would it not be possible via planning conditions and S106 wording to make it that all traffic for both sites have to use this one approved access rather than have a second entrance?

The village has ongoing issue with surface water flooding and the addition of significant number of houses at the elevated south end of the village is likely to have increased surface flooding impacts on the lower lying areas of the village, predominantly Railway Street. This was evident in the last few weeks when Railway

Street was flooded and passable only by off-road vehicles. The Ryedale District Plan 2013 page 109, section 6 referencing utilities in service villages identified that Slingsby had 'no current capacity' and 'upgrading will be required' with respect to sewers.

The parish council would like to see a clearer awareness of and mitigation strategy for the buried archaeology likely to be encountered on the site. The Balk is located within a highly sensitive archaeological area, between two large, nationally important scheduled areas (NHLE Iron Age barrow cemetery to the east and NHLE 1004178 Slingsby Castle, to the west). In particular, the site lies along the line of the Iron Age trackway and barrow cemetery to the east, as identified by Historic England's Howardian Hills Aerial Mapping project (HE NMP p.15) fig.1. The trackway lies directly in the path of the proposed development, yet no mention is made of its significance in the Design and Access Statement and there are no details of the findings made during preliminary explorations of the site last year to mirror the ecology reports submitted as part of this reserved matters application. We note that in previous applications, Historic England as a Statutory Consultee expressed concerns about the absence of clear reference to archaeological mitigation under the terms of the NPPF (para 194) and the Listed Buildings and Conservation Areas Act (1990) 72(1) and 38(6) and would repeat their request for reassurance that the original archaeological conditions apply and will be adhered to in the revised proposals.

There is public open space with this application as with the adjacent approved site. It is hoped that the same maintenance management company could be used for both sites. Either way, a maintenance company will be required, so that the maintenance does not fall on the Parish Council.

Will a construction/traffic management plan be needed for this site?

The Parish Council has previously supported the development of this site but now are very disappointed that it has become a piece-meal site and confusion over the sequencing of development and potential increased disruption seems more likely. Given that the first section of the overall site has been granted outline planning permission, it seems unlikely that this second section will not also be given permission. The overall hope from the Parish Council and residents is that the planning authority will use their powers to ensure sensible restrictions and obligations on both sections of the site are defined and enforced to ensure disruption is minimised and the overall collective impact of the two developments is the same as if they were one.

- 7.20. **Highways North Yorkshire** No response received
- 7.21. **Housing Services** remain supportive of the application subject to 4 affordable units being provided and the commuted sum. One three bedroom house should be of Intermediate tenure and one three bedroom unit and 2 x two bedroom units should be Social/Affordable Rent. All affordable homes should meet minimum NDSS space standards.
- 7.22. **NYC Natural Services** According to the PEA, the site comprises agricultural grassland of low nature conservation value and there are few risks to protected species. We recommend a Condition to adhere to the recommendations set out in the PEA concerning bats (sections 8.2.5.1-8.2.5.3, including provision of at least 4 bat boxes), nesting birds (section 8.4.5, including provision of at least 8 boxes as specified) and Hedgehogs (section 8.7.4). Details of hedgerow enhancement noted and the proposal is policy compliant in respect of biodiversity net gain.

- 7.23. **Flood Risk (LLFA)** The submitted documents are limited and the LLFA recommends that the applicant provides further information before any planning permission is granted. The following should be submitted and approved by the Local Planning Authority: location of percolation testing; hydraulic calculations; maintenance arrangements; and construction phase surface water management plan.
- 7.24. **Yorkshire Water Land Use Planning** Recommend condition to ensure development carried out in accordance with the 'Plot Drainage' drawings.

Re-consultation (further drainage information)

- 7.25. **Flood Risk (LLFA)** The submitted documents demonstrate a reasonable approach to the management of surface water on the site. Recommend condition to ensure the development is constructed in accordance with the approved drainage design.

Local Representations

- 7.26. The LPA has received 13 representations from local residents which all raise objections to the application. A summary of the comments is provided below, however, please see the Council's website for full comments.
- Overdevelopment
 - There is not the infrastructure, transport nor community facilities to cater for all this development
 - 38 should not become 39 dwellings
 - The original application made no mention of any access via the land on number 14 Aspen Way.
 - Access via Aspen Way is not required
 - The proposal does not conform with the criteria lay down in allocation SD11.
 - Can the two parties not agree to using the same access road?
 - Construction traffic will pass properties on Aspen Way (noise, disruption and pollution from HGVs)
 - Will there be start and finish times for the construction work to limit noise nuisance?
 - The development will cause traffic problems on Aspen Way
 - The new access would result in removal of two mature trees in the garden of 14 Aspen Way
 - The site should be accessed from the main road (B1257)
 - Insufficient in-curtilage parking
 - The layout does not allow circulation of traffic
 - Adequate space provision should be given for access by emergency fire and ambulance vehicles and their movements.
 - The type of houses are not similar in build and design
 - The dwellings should be single storey as is the case on Aspen Way
 - The plans submitted are very ordinary and effectively a line of houses to one side of a street.
 - Surface water drainage issues- the proposed soakaway is a flood hazard

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;
 - Landscaping, trees and public open space;
 - Residential amenity;
 - Highways;
 - Flood risk and drainage;
 - Biodiversity & ecological impact;
 - Archaeological impact;
 - Minerals Safeguarding;
 - Community Infrastructure Levy (CIL); and
 - Section 106 legal agreement.

10.0 ASSESSMENT

Principle of the Development

- 10.1. The site is within the development limits for Slingsby (Service Village) and forms part of the residential land allocation identified (Policy SD11) within the Ryedale Plan-Local Plan Sites Document (2019) and, as such, forms part of the adopted statutory Development Plan.
- 10.2. Therefore, the principle of residential development at the site has been already established by the allocation of the land and reaffirmed by the grant of outline planning permission (ref: 18/00686/MOUT) on 12 March 2020. The site makes an important contribution towards the supply of deliverable housing.
- 10.3. There is local concern in relation to additional housing being developed in the village. However, since the allocation and the grant of outline permission, 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 (2023) 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 when assessed against the policies in the NPPF taken as a whole.
- 10.4. It is noted that in combination the current proposal for 13 dwellings in the eastern site alongside the application for the adjacent site for 26 dwellings exceeds the yield (36 dwellings) set out in Policy SD2 of the Local Plan Sites Document (2019). The yield stated in Policy SD2 is not an absolute figure and it is accepted that the precise figure is to be determined at planning application stage. The fact that the total number of dwellings proposed across the two applications (39) is in excess of the indicative yield figure and the outline permission (38 dwellings) does not amount to a conflict in principle with the Council's policy.

- 10.5. The spatial planning principles established within the Ryedale Plan- Local Plan Strategy (2013) were taken into account when the application site was identified as a housing allocation within the Ryedale Local Plan Sites Document (2019). 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.

Affordable Housing

- 10.6. The proposed development would be for 13 units. Policy SP3 (Affordable Housing) requires 35% on site affordable housing provision which equates to 4.55 affordable units to meet the policy requirement. The applicant proposes 4 affordable units comprising 2 x 2bed 4person units, 2 x 3bed 5person units and a financial contribution of 0.55 of a unit (£54,367) to meet the policy requirement. There is also an additional 5% contribution required by Policy SP3 which is £98,850 x 0.65 units = £64,252.
- 10.7. The Council's Housing Officer notes that the proposed mix reflects local housing need and that all affordable units will meet nationally described space standards (NDSS) which is supported. The Council's Housing Officer requests that the tenure is 1 x 3 bedroom unit as Intermediate/Shared Ownership tenure with the rest social/affordable rent.
- 10.8. 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

- 10.9. Paragraph 135 of the NPPF (2023) states that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- 10.10. Policy SP16 of the RPLPS states that *“Development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which: Reinforce local distinctiveness ; Provide a well-connected public realm which is accessible and usable by all, safe and easily navigated; and Protect amenity and promote well-being”*. The policy goes on to state *“To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings”*.
- 10.11. Policy SP20 of the RPLPS states that *“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”*.
- 10.12. The site is located on rising ground to the north of the B1257 on the southern edge of the village. The 13 dwelling development the subject of this application would occupy the eastern part of the outline permission/allocated site separated from the western parcel of land by the planted field boundary.
- 10.13. The site is to be developed at a density of 22 dwellings per hectare which does not depart from the character of the village. In light of this the fact that the total number of dwellings proposed across the two sites (39) exceeds the outline permission by one unit is not considered to be significant.
- 10.14. Due to the size and narrow, rectangular shape of the application site relative to the residential development site immediately to the west the options for a layout that

positively responds to the adjacent site are limited. The proposed site layout does not significantly depart from that indicated at outline stage with the dwellings orientated to face west with the access roadway along the frontage extending north-south. The proposed layout and density responds to the local housing pattern and has a positive relationship to the adjoining built development and established landscaping on the site boundary. It is considered that the proposed layout provides for adequate relationships between dwellings within the site and that the separation distances (back to back, side to rear) between units is acceptable.

- 10.15. The development principles of the site (Policy SD11 of the RPLPSD) dictate that the scale of buildings is to be limited to one and two storey heights which is the case in this proposal.
- 10.16. The proposed house types (semi-detached cottages and detached, larger houses) and variation in building footprint provides for suitable variation and visual interest. The proposed dwellings would be entirely two storey houses of a type which reflects the general types of dwellings in the village and does not unduly depart from those approved in the adjacent residential development site to the west.
- 10.17. The proposed streetscene elevation facing west illustrate that there is a degree of variation in the eaves and ridge heights and general proportions of the dwellings. The land levels within the site fall away in a general south-north direction and it is necessary for the development to adapt to the landform. There is a degree to stepping across the site north- south, however, this would not be disproportionately obvious and is acceptable in this location set back from the principal streetscene (The Balk) and the Conservation Area.
- 10.18. The palette of materials proposed is a mix of predominately natural stone with some brick built houses with clay tiles and slate to the pitched roofs.
- 10.19. The majority of dwellings would have eaves parallel to the road although in the case of plots 1 and 2 there would also be gables facing the road which provides visual interest in the streetscene. There is a good range of dwelling types and sizes with a degree of variation in frontage widths. At the southern end of the site plots 12 and 13 would appear as a single, prominent detached house punctuating the end of the access road with a rear elevation (south) that provides a suitable frontage to the main road (B1257).
- 10.20. The majority of dwellings would include chimneys providing vertical emphasis and there would be suitable variation in both the eaves detail and roof pitch. Windows would be a mix of casement and sash windows and are well proportioned and appropriately spaced with suitable cills and lintels either horizontal or slightly arched. There would be an appropriate degree of variation in the door surround styles and detailing. Overall, it is considered that there is appropriate variation in house types and styles. The proposed appearance and materials of the dwellings are acceptable and would reflect local vernacular and the edge of village context.
- 10.21. The various garages across the site are relatively modest and do not dominate individual plots. The provision of in-curtilage parking would minimise the dominance of parked vehicles along the access roadway.
- 10.22. There have been concerns raised about the arrangement of affordable units and the potential lack of social cohesion and integration. The affordable housing is proposed to be sited towards the south of the site. As a result of the build quality and appearance the affordable units would be visually indistinguishable from the market housing and would not indicate the tenure. There is additional affordable housing to be provided in the western part of the outline permission/allocated site and, as a

result, there will be no unacceptable grouping of affordable units when the housing development is considered on the whole.

- 10.23. Overall, the development will reinforce local distinctiveness and provide well-designed streets and spaces in compliance with the NPPF (2023), Policy SD11 of the RPLPSD (2019) and Policies SP13, SP16 and SP20 of the RPLPS (2013).

Landscaping, trees and public open space

- 10.24. The site is bounded by established planting along all sides. The existing hedgerow to Malton Road on the southern side of the site would be reinforced and managed to provide enclosure and a degree of screening.
- 10.25. The proposed areas of green space allow for the retention and protection of key landscape features which form the western boundary save for the loss of a short section of hedgerow to create the east-west access link between the two sites. The public open space would comprise a linear village green area on the western edge of the site (central within the wider site).
- 10.26. Hedgerow planting to close the existing field gate would provide screening of the small parking area (plots 12 and 13) in the south east corner when viewed from the B1257. The frontage of the majority of the plots would comprise a small garden and would provide a soft edge within the streetscape. All dwellings would be served by private rear gardens laid to lawn.
- 10.27. There is general scope for a proportionate landscaping scheme for the site with the retention of existing boundary planting alongside the provision of open space. The development is considered to be acceptable and complimentary to the overall design and in line the development principles of the site allocation. It is considered that the development complies with the requirements of Policies SP13, SP16 and SP20 of the RPLPS (2013).

Residential amenity

- 10.28. 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.
- 10.29. The plans show that the site can be developed with sufficient private amenity space for individual plots and that dwellings will be of proportions and orientations that do not result in loss of light, overlooking or loss of privacy to future occupants of the new development in accordance with Policies SP4 and SP20.
- 10.30. The site would be developed with sufficient stand offs from the boundaries adjacent to existing residential properties to the north and inset and partially screened from the public highway to the south.
- 10.31. The separation distance between the dwelling in plot 1 and the existing bungalow to the north (14 Aspen Way) is 6 metres (side to side). The dwelling in plot 1 would have a similar depth as the adjacent bungalow and the front and rear building line positions would not be dissimilar. It is not anticipated that the proposed dwelling would have any overbearing effects or result in a material loss of light to the neighbouring property.

- 10.32. In terms of potential for overlooking the first floor window in the side, north facing elevation of the dwelling in plot 1 would serve an en-suite and a condition shall be imposed to require obscure glazing. In addition a condition shall be imposed to prohibit any additional first floor windows being formed in the side (north) elevation of the dwelling in plot 1 without prior written approval. Due to the angle of the respective buildings the first floor windows in the rear, east facing elevation would not provide direct views over the rear gardens of number 14 Aspen Way. The front elevation of the proposed dwelling in plot 1 is 21 metres from the side elevation of number 12 Aspen Way and no loss of privacy issues or overbearing impacts are anticipated.
- 10.33. The proposed access roadway to be formed in the northern boundary of the site extends from Aspen Way to the side of number 12 Aspen Way and to the front of number 14 Aspen Way. The edge of the road would be 7.5 metres from the front elevation of 14 Aspen Way and 8.5 metres from the side elevation of number 12 Aspen Way. No objection has been received from the occupant of number 14 Aspen Way although an objection has been received from the occupant of number 12 Aspen Way.
- 10.34. It is relevant to note that the proposed roadway would be no closer to numbers 12 and 14 Aspen Way than the existing roadway (which serves a higher number of dwellings) within Aspen Way where it passes between numbers 17 and 18 Aspen Way for example.
- 10.35. The relationship between the side elevation of number 12 Aspen Way and the proposed road shown on the layout plan would not be untypical of residential layouts, where roads pass the side elevations of dwellings. There would be a reasonable amount of distance between where the road is shown and the side elevation of number 12 Aspen Way and the front elevation of number 14. This would ensure that there would be no harm to living conditions due to a loss of privacy occurring through the use of the access road. In conjunction with the fact that a limited number of dwellings are proposed and the access is only a temporary solution, this separation would also ensure that noise levels from passing vehicles would not be unduly harmful.
- 10.36. It is proposed that once the western part of the development comes forward and the aligned northern access point is delivered, the proposed vehicular access from the application site direct to Aspen Way would then be downgraded to a pedestrian/cycle access. The applicant states that this could be controlled via an obligation within the Section 106 legal agreement for this application or through including an appropriately worded planning condition.
- 10.37. Hours of construction shall be limited by condition and it is understood that construction traffic would access the site direct from the B1257 via the field access in the southern boundary and as a result there would be no impact on the occupants of properties on Aspen Way during the construction phase. A condition shall be imposed to secure a Construction Management Plan. Overall, it is considered that the development would not give rise to conditions prejudicial to residential amenity and complies with Policy SP20.

Highways

- 10.38. 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”.

- 10.39. Paragraph 115 of the NPPF (2023) 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”.*
- 10.40. The application details set out that, depending on the timing of development progressing in the adjacent site, the proposed housing development the subject of this application could be served by either an access from the north direct from Aspen Way or from a link through to the western site. The site allocation development principles do not prohibit a second access from Aspen Way but it is noted that the proposal is not the preferred option and is a temporary solution which provides short term flexibility as ultimately the internal site roadways across both sites would be constructed to adoptable standards and there would be no ransom strip scenario.
- 10.41. It is proposed that a section of hedgerow in the northern boundary is removed to allow for the formation of the proposed access roadway off Aspen Way. The short section of new road would extend from Aspen Way to the side of number 12 Aspen Way and to the front of number 14 Aspen Way.
- 10.42. The access roadway would extend the length of the site in a north-south alignment to the front (west) of plots 1-11 and to the front (north) of plots 12 and 13. The road would be 4.5 metres in width along its entire length. The road would have a 2 metre wide footpath along its eastern edge to the front of the new dwellings. The road layout provides for the removal of a short section of hedgerow in the western boundary to form a junction/connection with the adjacent site to the west which includes a tactile crossing on the footway opposite Plot 3 to provide access to the adjacent site for pedestrians.
- 10.43. It is proposed that once the western part of the development comes forward and the aligned northern access point is delivered, the proposed vehicular access from the application site direct to Aspen Way would then be downgraded to a pedestrian/cycle access through the installation of bollards at the end of the roadway. The applicant states that this could be controlled via an obligation within the Section 106 legal agreement for this application or through including an appropriately worded planning condition. It is considered that should permission be granted a condition will be imposed to secure an appropriate scheme for the closure/downgrading of the Aspen Way vehicular access.
- 10.44. The LHA have not raised any objection to the proposed access to be formed from Aspen Way. It is considered that the alternative access from Aspen Way whilst not the first access option considered at outline stage it is not objectionable and would make the scheme deliverable in the short term whilst also making provision for a link to the adjacent site to ensure a comprehensive development of the wider site and the whole housing allocation.
- 10.45. During the course of processing the application and in response to comments received from the Local Highway Authority (LHA) the applicant has provided updated site layout plans; swept path analysis and a series of highways engineering drawings including drainage arrangements.
- 10.46. The submitted details appear to address the earlier comments made by the LHA but at the time of writing this report a further response from the LHA is awaited and will be provided prior to the application being reported to Planning Committee.

- 10.47. The majority of the concerns raised by existing residents on Aspen Way relate to the impact of construction traffic (noise, disturbance, disruption) accessing the site via Aspen Way. However, it is understood that construction traffic would access the site direct from the B1257 via the existing field access in the southern boundary and not via Aspen Way. Clearly, this is a benefit of the scheme in terms of amenity and highway safety. A condition shall be imposed to secure a Construction Management Plan.
- 10.48. The access roadway within the site would be constructed to adoptable standards. The road layout shows that the vehicular access road provides a link up to the boundary with the western site and this would ensure unfettered access as required by the site development principles of Policy SD11.
- 10.49. The site provides for adequate in-curtilage parking arrangements for the occupiers of the proposed dwellings and a swept path analysis has been completed to show that service and refuse vehicles can safely manoeuvre within the site.
- 10.50. At the time of writing this report the LHA have not raised any concerns in relation to the traffic to be generated by the proposed development and there is sufficient existing capacity in the existing highway network. The access arrangements, internal road layout and parking provision have been the subject of previous discussion and are expected to be considered acceptable subject to conditions.
- 10.51. It is anticipated that should permission be granted a number of standard conditions will be included in respect of engineering drawings for roads and sewers and programme for delivery; construction of adoptable roads and footways prior to the development being brought into use; closure of existing field access off the B1257 upon completion of the construction phase; construction of parking for dwellings; limitation on conversion of garages; and a detailed Construction Management Plan.
- 10.52. Subject to the final comments from the LHA not raising any significant concerns it is considered that the site can be developed for housing without resulting in an adverse impact on highway safety or capacity and complies with the requirements of the NPPF and Policy SP20.

Flood Risk and drainage

- 10.53. The site is within Flood Zone 1, nevertheless the application is accompanied by a Flood Risk Assessment which confirms the low risk of flooding.
- 10.54. 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.
- 10.55. For surface water drainage it is confirmed that infiltration testing results indicate that the natural soil is suitable for infiltration and soakaways are considered a viable method for this development. The application is accompanied by a Drainage Management Plan, plot-by-plot soakaway test results and proposals and hydraulic calculations.
- 10.56. The LLFA initially requested further information in the form of a drainage strategy, location of percolation testing, hydraulic calculations, an exceedance flow plan, maintenance plan and construction phase surface water management plan. The further information has been provided and the LLFA have since confirmed that the submitted documents demonstrate a reasonable approach to the management of surface water on the site. The LLFA recommend a condition to ensure the development is constructed in accordance with the approved drainage design.

- 10.57. There is local concern in relation to the capacity of the existing sewerage system serving the village although no objections have been raised by the relevant statutory undertaker (Yorkshire Water). No objections have been raised by the Environment Agency.
- 10.58. Overall, it is considered that the drainage proposals represent a reasonable approach to the management of surface and foul water arising from the development in accordance with the NPPF and Policy SP17.

Biodiversity and ecological impact

- 10.59. The application is accompanied by an up-to-date Preliminary Ecological Assessment (PEA). The PEA has been reviewed by the Council's Ecologist who notes that the site comprises agricultural grassland of low nature conservation value and there are few risks to protected species.
- 10.60. The Council's Ecologist acknowledges the advice contained within the PEA in relation to enhancements for bats, nesting birds and hedgehogs and compliance will be secured by condition.
- 10.61. Policy SP14 of the RPLPS (2013) and the NPPF require a net gain in biodiversity to be provided as part of new development schemes. This is not a scheme which is subject to the mandatory requirement for Biodiversity Net Gain by virtue of Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) due to it being made prior to the regulations being enacted. Nevertheless, the application is accompanied by a Habitat Condition Assessment and Biodiversity Metric calculations with proposals for increase hedgerow provision across the site to improve the measurable gain in linear habitat units.
- 10.62. The BNG calculations show a net gain of 2.4% for area-based habitats and 1.01% for hedgerows. The net gains are not significant but the Council's Ecologist has confirmed that the hedgerow enhancement proposals are compliant with relevant policy requiring net gains for biodiversity and can be accepted. A condition will be imposed to secure the approval and delivery of the landscape scheme and BNG.
- 10.63. 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.

Archaeological impact

- 10.64. The application site has previously been the subject of an archaeological geophysical survey and trial trench evaluation. The Council's Archaeologist states that the reports for this work represent a suitable baseline from which to assess the impact of the proposal on heritage assets of archaeological interest.
- 10.65. The Council's Archaeologist notes that the archaeological work has identified that significant deposits relating to a later prehistoric trackway survive within the northern part of the development area. The trial trenching indicated that discrete features are also present including a cremation pit. The trackway is significant as it is a continuation of a landscape feature that extends to the east, where it is associated with an Iron Age square barrow cemetery (which is a Scheduled Monument). The trial trenching demonstrated that the archaeological remains survive beneath a layer of alluvial silt which is up to 600mm in depth.

10.66. The Council's Archaeologist recommended a scheme of archaeological mitigation recording in response to the ground disturbing works associated with the development proposal. In light of this the proposed development complies with the NPPF and Policy SP12.

Minerals Safeguarding

- 10.67. The site development principles set out in the site allocation (Policy SD11) requires feasibility and viability of the extraction/utilisation of the minerals resource to be demonstrated.
- 10.68. The earlier outline application was accompanied by a Minerals Safeguarding Statement which concludes that any mineral extraction at the site would be economically unviable, unsuitable and unlikely to be environmentally acceptable and should not prevent the proposed residential development coming forward.
- 10.69. 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)

10.70. The proposed development is CIL liable at £85 per square metre for the market housing.

Section 106 Legal Agreement

10.71. 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 4 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 0.55 of a unit and the additional 5% contribution. The applicant has prepared a Draft Heads of Terms for a Section 106 agreement.

Table 1		
Category/Type	Contribution	Amount & Trigger
Affordable Housing	On-site units	4no. dwellings
Affordable Housing	Commuted sum	Equivalent to 0.55 of a unit & 5% additional financial contribution
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 Service Village and is allocated for housing within the adopted Development Plan. The development of this small size site would make an important contribution towards the supply of deliverable housing. Furthermore, the scheme would provide a policy compliant level of affordable housing. 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 proposal respects the character of the settlement and would suitably integrate with the development to the west. The application proposes a road layout that accommodates the need to link through to the field to the west whilst providing a temporary access solution that would mean the site is deliverable in the short term.
- 11.3 The application is subject to a relatively small number of representations from local residents and a response from the Parish Council which raise concerns. The responses have been taken into account in the above appraisal.
- 11.4 The proposed development is not considered to have an unacceptable impact on the character of the settlement, landscape, local amenity, highway safety, ecology, archaeology or flood risk.
- 11.5 In overall conclusion, the proposal represents a sustainable design solution, with particular regard to local character and distinctiveness and design quality.
- 11.6 This application complies with the adopted Development Principles for this allocated site and the scheme accords with the Development Plan and NPPF (2023), with no other material considerations indicating otherwise, the application is recommended for approval.

12.0 RECOMMENDATION

- 12.1 That planning permission be **GRANTED** subject to conditions (to follow) 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:

To follow in late pages

Target Determination Date: 21.07.2023

Case Officer: Alan Goforth, alan.goforth@northyorks.gov.uk

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North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

21 MARCH 2024

ZE23/06814/MFUL - APPLICATION FOR THE ERECTION OF 3 NO. DRIVE THRU UNITS, TOGETHER WITH ASSOCIATED LANDSCAPING, BOUNDARY TREATMENTS, CAR PARKING, SERVICING, INTERNAL ROADS, ACCESS AND ASSOCIATED WORKS ON LAND NORTH OF EDENHOUSE AVENUE, OLD MALTON ON BEHALF OF COMMERCIAL DEVELOPMENT PROJECTS LTD & FITZWILLIAM TRUST CORPORATION 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 erection of 3 no. drive thru units, together with associated landscaping, boundary treatments, car parking, servicing, internal roads, access and associated works on land north of Edenhouse Avenue, Old Malton.
- 1.2 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to any further requirements of the LLFA and subject to conditions and the completion of a Section 106 legal agreement with terms as detailed in Table 1 (contained within Section 10.78 of this report).

- 2.1. The proposed development comprises the erection of 3 no. drive thru units, together with associated landscaping, boundary treatments, car parking, servicing, internal roads, access and associated works.
- 2.2. The application site amounts to approximately 1.06 hectares and is situated north of Old Malton close to the A64 Malton by-pass and the A64/A169/B1257 (Town Street) roundabout junction. The site forms part of the Eden Business Park which is just over 17 hectares of land identified as a commitment for employment development under Policy SD12 of the Ryedale Plan- Local Plan Sites Document (2019).
- 2.3. The general principle of development on this site is established through the employment land allocation (Policy SD12) in the Ryedale Plan- Local Plan Sites Document (2019) and the outline planning permission for industrial/commercial development at the site (see planning history).
- 2.4. The main issues through the course of the application have been the impact on the town centre, design, highways safety, local and residential amenity, flood risk and drainage. It is considered that these matters have been adequately addressed.

3. Preliminary Matters

3.1. Access to the case file on Public Access can be found here:

<https://planningregister.ryedale.gov.uk/caonline-applications/>

3.2. The following relevant planning history has been identified for the application site:

16/00487/73AM- Removal of Conditions 14 and 23 (detailed highway works) and Variation of Condition 40 to remove drawing no. 13051-011 Revision A (Connect) of approval 14/00426/MOUTE dated 24.03.2015. APPROVED 23.06.2016

16/00273/73AM- Variation of Conditions 10 and 19 of approval 14/00426/MOUTE dated 24.03.2015 to allow a phased approach to development of site, with archaeological details (WSI) and landscaping details submitted pursuant to that phase, and variation of Condition 12 to allow commencement of works to retention pond and pumping station without submission of details regarding safe non-car means of access. NOT DETERMINED.

14/00426/MOUTE- Erection of new livestock market (sui generis) comprising circa. 2,850 sq m floorspace: Agricultural Business Centre comprising circa. 6,010 sq m of floorspace for uses within Use Class A1, A2, A3, D1, B1, B2, B8 and agricultural vehicle sales (sui generis); and new Business Park comprising circa. 19,040 sq m of floorspace for uses within Use Class B1, B2, and B8 including premises for The Ginger Pig comprising 1,790 sq m of floorspace (for uses falling within Class B1, B2, B8 and A1) along with (in respect of all elements) all associated development including drainage, provision of services, landscaping, boundary treatments, attenuation ponds and access and associated highway works. (Site area 17.8ha). APPROVED 24.03.2015.

3.3. The following planning history has been identified for land adjacent to the application site within the wider business park/allocation:

21/00981/MFUL- Erection of a showroom, office and workshop building with associated car parking, service yard, external lighting, electricity substation and landscaping for an agricultural business use. APPROVED 22.10.2021. The development has been completed and is occupied by Ripon Farm Services.

21/00442/MFUL- Use of land as a highways depot to include the erection of an office/workshop building, erection of a salt barn and associated car parking, service yard and landscaping. APPROVED 04.08.2021. The development has been completed and is occupied by National Highways.

19/00839/FUL- Erection of two storey flat-roofed building to include offices and meeting rooms and staff canteen and toilet facilities. APPROVED 22.11.2019. The development has been completed and the units are occupied.

19/00757/FUL- Erection of petrol filling station with forecourt shop sales building, canopy, 3no. fuel pump islands, 2no. HGV fuel pump islands, air bay, goods-in delivery bay, customer parking and associated access, landscaping and boundary treatment works. APPROVED 07.01.2020. The development has lawfully commenced but has not been completed.

19/00241/MREM- Use of land adjacent to Unit B1 as an extension to the service yard to accommodate existing and future staff parking and to enable the storage of raw materials (metal rolls) in containers and finished products on racks (outline

approval 14/00426/MOUTE dated 24.03.2015 as amended refers). APPROVED 18.04.2019. The development has been completed and the land is in use.

18/00243/MREM- Erection of Unit A - Industrial unit subdivided into 4no.units and Unit B - Industrial unit subdivided into 2no. units: Phase 1 of reserved matters (outline approval 14/00426/MOUTE dated 24.03.2015 refers as amended). APPROVED 25.05.2018. The development has been completed and the units are occupied.

16/00412/FUL- Formation of roundabout access and internal access road to serve development at Edenhouse Road (revised details to approval 14/00426/MOUTE dated 24.03.2015). APPROVED 08.07.2016.

16/00251/MREM- Construction of retention pond with associated landscaping and construction of pumping station together with erection of perimeter fencing and formation of vehicular access: Phase 1 of reserved matters (outline approval 14/00426/MOUTE dated 24.03.2015 refers). APPROVED 24.05.2016.

4.0 Site and Surroundings

- 4.1. The application site amounts to approximately 1.06 hectares and is situated to the north of Old Malton. The site forms part of the Eden Business Park which is just over 17 hectares of land identified as a commitment for employment development under Policy SD12 of the Ryedale Plan- Local Plan Sites Document (2019). The policy states that *“Employment development sites shown on the Policies Map as existing Employment Commitments will be treated as allocations for employment development. Employment development should be consistent with the site’s existing permission, in the event that the current permission expires.”*
- 4.2. The LPSD (2019) explains that *“the site is considered to be a major employment/business opportunity for the district which occupies a good location in relation to the principal town and strategic road network”*.
- 4.3. The site forms the north-eastern part of the land the subject of outline planning permission (ref. 14/00426/MOUTE, dated 24.03.2015) for *‘the erection of new livestock market (sui generis) comprising circa. 2,850 sq m floorspace: Agricultural Business Centre comprising circa. 6,010 sq m of floorspace for uses within Use Class A1, A2, A3, D1, B1, B2, B8 and agricultural vehicle sales (sui generis); and new Business Park comprising circa. 19,040 sq m of floorspace for uses within Use Class B1, B2, and B8 including premises for The Ginger Pig comprising 1,790 sq m of floorspace (for uses falling within Class B1, B2, B8 and A1) along with (in respect of all elements) all associated development including drainage, provision of services, landscaping, boundary treatments, attenuation ponds and access and associated highway works’*.
- 4.4. In 2015, the site was established as the Malton Food Enterprise Zone (FEZ). A Local Development Order covers the site in order to help facilitate a focus on the agri-food sector in this location. During the period 2016-2021 a number of planning permissions and Reserved Matters approvals were issued for ancillary infrastructure; roadways; industrial and commercial units; a highways depot; and a petrol filling station. The land identified for the livestock market and agricultural business centre is approximately 350 metres west of the site beyond Edenhouse Road.
- 4.5. The site is 680 metres north of the settlement of Old Malton and 400 metres north of the A64 Malton by-pass and the A64/A169/B1257 (Town Street) roundabout junction. The site is bounded by the A169 to the east, Edenhouse Road to the south and a showroom/office/workshop building occupied by Ripon Farm Services to the west

beyond which is the National Highways depot. To the north of the site is a native hedgerow and dense, mixed woodland shelter belt.

- 4.6. The principal vehicular access route to the site is off the A169 roundabout and via Edenhouse Road utilising the existing spur that serves the building occupied by Ripon Farm Services. The nearest public right of way (Bridleway no. 25.60/18/1) is beyond the woodland belt to the north.
- 4.7. The site is predominantly comprised of ruderal/ephemeral vegetation, with hedgerows, bare ground and sections of prepared ground with gravel used for recent vehicular plant access and building material storage. There are drainage ditches along the southern boundary and parts of the western and eastern boundaries of the site. The River Derwent is 1km south east of the site and is a designated Special Areas of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The majority of the site falls within Flood Zone 3.
- 4.8. To the south west of the site is Eden Camp museum and Russell's farm equipment sales and repairs business. The nearest residential properties to the site are those of Eden House and Eden Farm house which are approximately 630 metres to the north-west. 'The Old Barn' is situated approximately 680 metres south of the site at the northern end of Town Street, Old Malton. The farm house at Windmill Farm is 750 metres to the west and Wyse House is 780 metres east of the site.

5.0 Description of Proposal

- 5.1. Full planning permission is sought for the erection of 3 no. drive thru units, together with associated landscaping, boundary treatments, car parking, servicing, internal roads, access and associated works.
- 5.2. The application is accompanied by a Planning Statement; Design and Access Statement; Sequential Assessment (Retail); Transport Assessment; Travel Plan; Highways Technical Note; an Archaeological Evaluation report; Arboricultural Survey Report; Biodiversity Net Gain Assessment and calculations; Flood Risk Assessment (revised); Drainage Impact Assessment (revised); Drainage maintenance and management plan; Preliminary Ecological Appraisal; Economic Statement; and External Lighting Design.
- 5.3. The proposed 3 no. drive thru units would be single storey and occupied by food and beverage uses (mixed use Class E(b)/Sui Generis) with the intention of meeting the needs of passing motorists, employees of the adjacent units within the Business Park and users of the petrol filling station (consented but not yet constructed). The drive thrus would be operational 24/7.
- 5.4. Access to the site is off Edenhouse Road utilising the existing spur that serves the building occupied by Ripon Farm Services. Within the site the proposed roadway extends eastward with junctions off the road to serve each of the three units. The site layout indicates that the 3no. drive thru units would each occupy a corner of the broadly triangular shaped site. Unit 1 would occupy the largest proportion of the site on its eastern side nearest the A169, Unit 2 would be situated in the north west corner and Unit 3 in the south west corner.
- 5.5. Each unit would be served by its own internal circulation road, parking provision and designated bin storage areas within their demise. The site layout has been designed to be fully accessible to emergency, refuse and delivery vehicles. The development will incorporate electric vehicle charging points and bicycle storage/parking.

Unit 1

- 5.6. Unit 1 is broadly rectangular with a total length of 33 metres and maximum width of 15 metres. The building would have a gross external floor area of 435m². The indicative floor plan layout shows that the area available for customers collecting food and dining is approximately 90m² which provides for 79 covers. The majority of the building would be kitchens, office, staff room, storage and refrigeration, staff and customer WCs and the cash desks/serving areas.
- 5.7. The single storey flat roof building has three distinct parts and would have a cascading roofline with apex heights of 3 metres, 4.7 metres and 6 metres above ground level. Externally Unit 1 would comprise a combination of dark grey engineering brick, timber effect cladding and Anthracite Grey cladding to the walls. The majority of the glazing would be in the north west facing elevation with windows and doors in aluminium frames finished RAL 9005 ('Jet Black'). The drive thru lanes would loop around the western, northern and eastern sides of the building and the payment and serving hatch windows would be on the south east elevation (roadside). The customer parking area would be to the south west of the building with space for 45 cars.

Unit 2

- 5.8. Unit 2 is broadly rectangular with a total length of 22 metres and maximum width of 13 metres. The building would have a gross external floor area of 214m². The indicative floor plan layout shows that the area available for customer seating and collection of food and drink is approximately 95m². The majority of the building would be the kitchen, staff room, storage and refrigeration, staff and customer WCs and the bar/serving area.
- 5.9. The single storey flat roof building would stand to an apex height of 4 metres above ground level. There would be a rectangular feature projecting 3 metres above the roof that would provide space for signage. Externally Unit 2 would comprise a combination of timber façade cladding panels and fibre cement façade panels with a light grey/brown colour finish ('LT60 Hessian'). The majority of the glazing would be in the north and south facing elevations with windows and doors in aluminium frames finished RAL 7022 ('Umbra Grey'). The drive thru lane would loop around the western, northern and eastern sides of the building and the payment and serving hatch window would be on the north elevation (rear). The customer parking area would be to the south and east of the building with space for 41 cars.

Unit 3

- 5.10. Unit 3 is broadly rectangular with a total length of 18 metres and maximum width of 13 metres. The building would have a gross external floor area of 202m². The indicative floor plan layout shows that the area available for customer seating and collection of food and drink is approximately 60m². The majority of the building would be the kitchen, staff room, storage and refrigeration, staff and customer WCs and the serving area.
- 5.11. The single storey flat roof building would stand to an apex height of 5.3 metres above ground level. Externally Unit 3 would comprise a combination of horizontal timber cladding and composite façade panels RAL 7016 ('Anthracite Grey'). The majority of the glazing would be in the north facing elevation with windows and doors in aluminium frames finished RAL 7016 ('Anthracite Grey'). The drive thru lane would loop around the eastern, southern and western sides of the building and the payment and serving hatch window would be on the south elevation. The customer parking area would be to the north of the building with space for 13 cars.

Landscaping

- 5.12. The Landscape Masterplan shows that the boundaries would comprise native hedgerows supplemented by tree planting (73no. trees) with internal roadways and parking areas interspersed with ornamental planting, grass verges and wildflowers. The plans show that on the eastern and south eastern perimeter the green buffer (wildflower area and individual trees) between the proposed car park and the public highway would be a minimum of 14 metres in width.

Drainage

- 5.13. The on-site plot drainage will consist of separate surface and foul water drainage systems.
- 5.14. The Drainage Impact Assessment indicates that the site ground conditions are unsuitable for infiltration/use of soakaways. Therefore connection to watercourse has been proposed. The site benefits from existing surface water drainage infrastructure designed to accommodate future development plots. The drainage arrangements would involve connection to the southern perimeter swale on the plot boundary. The perimeter swale to the south is designed to accept an unrestricted flow of surface water from the site. The swale outfalls via a pipe network, ultimately discharging to watercourse via the Internal Drainage Board attenuation pond to the south west.
- 5.15. The site would connect to foul water drainage infrastructure to the west designed to accommodate an unrestricted flow of domestic foul water from the proposed development plot and ultimately discharges to an adopted Yorkshire Water Pumping Station.

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 SP6 Delivery and Distribution of Employment/Industrial Land and Premises
 Policy SP7 Town Centres and Retailing
 Policy SP9 The Land-Based and Rural Economy
 Policy SP10 Physical Infrastructure
 Policy SP12 Heritage
 Policy SP13 Landscapes
 Policy SP14 Biodiversity
 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 SD12 (New Employment Land Provision)

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 2023
 - National Planning Practice Guidance

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. **Malton Town Council** Recommend refusal, based on change of use, economic impact on the town centre and the traffic issues that will be created
- 7.3. **Vale of Pickering Internal Drainage Boards** No objection
- 7.4. **Flood Risk (LLFA)** Further information required- hydraulic model; exceedance flow plan; and allowance for climate change.
- 7.5. **Environmental Health** No noise concerns, control over lighting levels and standard contaminated land conditions requested.
- 7.6. **Archaeology Section** No objection
- 7.7. **National Highways** recommend Construction Phase Traffic Management Plan condition
- 7.8. **Highways North Yorkshire** further information required on the queuing/stacking areas for the drive thru lanes and the operation and management of deliveries.
- 7.9. **Designing Out Crime Officer (DOCO)** The overall design and layout of the proposed scheme is considered acceptable. From a crime and disorder perspective, drive-thru restaurants are often described as 'Honey Pots', where people congregate and linger particularly in the evening. If these premises are not properly managed it can result in an increase in complaints of criminal or antisocial behaviour in the area. It is recommended that the applicant produce a comprehensive Management Policy, to demonstrate how they have considered crime and disorder and what measures they intend to put in place to reduce the likelihood of an increase in these levels. Requirement for provision of litter bins and for staff to carry out a "litter patrol" within

a 50m radius of the premises at the end of business each day and to clear any litter that could be reasonably attributed to the premises.

- 7.10. **Environment Agency** No objection subject to condition to ensure development proceeds in accordance with the Flood Risk Assessment.
- 7.11. **NYC Natural Services** the application is supported by a Preliminary Ecological Appraisal (PEA) and biodiversity net gain (BNG) assessment. The site is mainly bare or sparsely vegetated ground, so is of low ecological value. Risks to protected/important species are generally minor. However, the mitigation recommendations in the PEA are couched in tentative terms (“consideration should be given...”), which is unhelpful as these cannot be secured by condition. In consultation with the applicant, mitigation recommendations need to be firmed up and summarised in a clear table in a revised PEA report. We would then look to secure these by condition. Numbers, types and general locations of nest boxes should be specified.

It is proposed to sow “wild bird seed mixtures” under hedgerows (PEA para 5.4.5), though these do not seem to be specified in the Landscape Proposals. Such mixtures usually comprise crop plants which need to be re-established every year. This doesn’t seem appropriate.

The BNG assessment projects that large uplifts would be delivered via appropriate landscaping (312% for area-based habitats, 99% for hedgerows & 67% for ditches), which is amply compliant with policy.

The document by Lytec helpfully explains how ecological considerations have been taken into account in designing the external lighting scheme. It would be useful if the applicant’s ecologist could confirm that the lighting scheme fulfils their recommendations. A brief email will suffice.

The site is within 1 km of the River Derwent Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Consideration of impacts on the river in the PEA is disappointingly scant. The council must consider whether there are any risks to the ecological integrity of the SAC/SSSI. We assume that rigorous pollution prevention measures will be implemented during construction, as per industry best practice standards. Our advice is that if surface and foul water drainage infrastructure is sufficient to reduce risks of pollution to a negligible level, likely significant effects on the SAC can be ruled out. If this is the case, it should not be necessary to undertake an assessment under the Conservation of Habitats & Species Regulations 2017, unless Natural England advises otherwise. We are unable to advise on water quality and drainage.

The potential effects of external lighting on riverine insects (a SSSI feature) should have been considered in the PEA, as insects such as mayflies are known to be attracted to artificial light, resulting in mass mortality. As Natural England has not raised this issue in relation to other developments at Old Malton, I assume they do not consider it significant. On balance, it is likely that distance from the river and the presence of other sources of light pollution in the surrounding landscape would rule any likely impact.

Re. the Landscape Plan, a single August cut of areas sown with a wildflower mix is unlikely to maintain a species-rich sward. Over time, the sown mixture is likely to be replaced by False Oat-grass and associated species. We recommend that two cuts per year are considered (e.g. July & September or March and August) though this is the applicant’s choice. This is offered as advice, we do not require any amendment of the plan.

- 7.12. **Yorkshire Water Land Use Planning** the Drainage Impact Assessment (DIA) is acceptable. Condition recommended to ensure development is undertaken in accordance with the DIA.
- 7.13. **Economic Development** No response received
- 7.14. **Natural England** No response received

Re-consultation (revised Ecological Appraisal and further lighting, drainage and highways information)

- 7.15. **NYC Natural Services** The revised Ecological Appraisal clarifies most of the matters raised previously. The appraisal remains weak regarding potential effects on the River Derwent but for the reasons explained previously, we do not consider that any significant adverse effects are likely provided industry standard best practice for pollution prevention is observed. I note that Natural England do not seem to have responded, so presumably has no concerns.

I would recommend a simple condition to comply with the recommendations of the Ecological Appraisal (Eden Camp West drive-through: ecological appraisal, Revision B, December 2023 by Smeeden Foreman).

The lighting scheme has been reviewed and 'signed off' by the applicant's ecologist as meeting their mitigation recommendations in the revised PEA so no concerns.

- 7.16. **Highways North Yorkshire** No objection- Access to the wider Eden Business Park is from a roundabout on the A169 Malton to Pickering road and then via Eden House Road where a number of priority junctions have been formed to serve plots either side of Eden House Road.

Access to the proposed development site would be from a previously formed priority junction and road at the eastern end of Eden House Road that currently serves the Ripon Farm Services unit. These access arrangements are considered satisfactory with the road widths and alignment allowing access for both motorists and larger services vehicles. The Business Park also has footpaths on both sides of Eden House Road and leading to and from the nearby bus stops on the A169 and the wider footway network. However as much of Malton would be beyond the typical walking catchment distance, numbers of pedestrians accessing the site may be limited although there is a lit and surfaced footpath from Old Malton alongside the A169.

The Transport Assessment (TA) has considered the potential trip generation for the 3 units, with a maximum peak hour flow of 200 trips on weekdays predicted. It should be noted that a significant proportion of these trips are expected to already be on the road network, either passing by the site on the A169, diverting from elsewhere, or forming part of a linked trip. Based on surveys of other sites once open the percentage of these type of secondary trips may be as high as 65% meaning around only 35% of the 200 trips could actually be new traffic on the network. It is also noted the TA has not made any allowance for trips that could have been generated by this part of the Business Park under its previous permission.

Capacity modelling with the new development traffic has been undertaken and this has shown the both A169 roundabout and A64/A169 roundabout would continue to operate within capacity.

The internal site layout and tracking has shown how service vehicles could access each unit, although management of traffic through the car parks would be needed at delivery times. The site layout also includes footways for pedestrian access and a level of car parking provision in line with our standards.

There are no local highway authority objections to the proposed development but it is recommended that conditions are applied to any permission granted to secure provision of parking and turning areas; travel plan delivery; construction management; service vehicle delivery plan; and a contribution of £5000 for Travel Plan monitoring.

- 7.17. **Flood Risk (LLFA)** The updated Drainage Impact Assessment does not include all of the requested information as stated within the previous response. Further information is required in relation to peak flow control, volume control and hydraulic model and allowance for climate change. The LLFA suggests that the information requested is provided prior to determination as it is not clear that the surface water can be managed on or off site without causing increased risk.

Local Representations

- 7.18. The LPA has received a total of 18 representations from members of the public and local businesses of which 6 raise objections to the application, 3 are neutral and 9 support the proposal. Full copies of all the representations received by the LPA can be accessed via the Council's Online Planning Register.

7.19. Objections

The reasons given in objection are as follows:

- No identified need for this facility in this location.
- The development of the fuel pumping station and service area opposite this site will provide the necessary welfare facilities for drivers in the local area
- Approving this development will have a significant and detrimental impact on existing retail businesses in our local towns and villages. It runs contrary to efforts to establish Malton as Yorkshires Food Capital
- Three drive thru's, on a relatively small site, is excessive
- Detrimental visual impact on the local landscape and wildlife
- This development appears more consistent with a city location.
- Unacceptable impact on highways safety due foot and cycle traffic having to cross a large junction of the A64
- No independent road safety audit of cyclists and pedestrians, potentially children crossing the A64
- A drive thru is, by its definition, based on car travel and is inconsistent with the declared climate emergency
- The drive thrus are not just for passing traffic but a destination in their own right
- Increase in traffic volumes- the area (A64/A169) is already congested during the holiday season and traffic would be backing up on the eastbound slip road of the A64
- Impact of traffic on residents of surrounding villages north of the application site, namely Ryton, Habton, Kirby Misperton, Great Barugh etc who have no choice but to travel right through this industrial development to the A169 every day.
- Developing a formal cycling/pedestrian path at the roundabout could be an option or improvements to the Malton to Pickering cycling route greatly improve the access from Malton via Pasture Lane to encourage safe active travel to the site.
- The buildings should incorporate roof-mounted solar panels

- The site should incorporate fast EV charging
- The operating hours should take account of nearby residential properties and the units should close at 10pm to avoid being used as car parks.
- External lighting proposals should mitigate impact on nocturnal habitats as well as reducing landscape impact from skyglow
- Any new signage should be in keeping with the rural area and appropriate for the scale of this development
- Littering- requires an enforceable litter management plan
- Obesity- detrimental to children's health

The responses include objections which raised matters which are not material planning considerations or beyond the remit of planning control and therefore not relevant to the determination of the application as follows:-

- Potential commercial competition between individual businesses and the financial impact on existing businesses
- Restricting the occupation of the units to only local businesses
- Requirement that the units utilise locally sourced products/ingredients

7.20. Support

The reasons given in support are as follows:

- The proposed development represents a significant investment in the economy of the Malton area, and will provide additional local employment opportunities and contributing to the overall prosperity of the area
- Encourage more spending in our area rather than travelling to York or Scarborough
- A drive-thru is a convenient option for residents to access a variety of goods and services without the need to park or step out of their vehicles and provides greater choice for local residents
- This project can strike a harmonious balance between tradition and progress, enhancing the overall vitality of the market town and meeting the evolving needs of its residents
- There are no services immediately adjacent to the A64 between Bilborough Top and Scarborough (a distance of over 40 miles) that have safe grade-separated access from both carriageways, the location of the proposed site seems appropriate
- Similar developments on the edge of other local market towns (ie Thirsk and Pocklington) operate without significant impact on existing local services, and they are also located where there is safe road access from major roads.
- Previous planning policy in the Malton area which concentrated retail and service-led developments in the town centre has resulted in levels of congestion/pollution which make it increasingly unattractive, and many people choose to drive to more accessible out of town areas in other locations. Malton is therefore haemorrhaging significant trade and income to York and Scarborough in these sectors.
- By strategically locating the establishment on the edge of the market town, traffic congestion within the town centre can be minimised
- The design and layout of the proposed buildings seems appropriate given the location and in the context of other recent buildings constructed in the immediate area.
- The drive thrus are far enough out of town not to damage the features of the town

8.0 Environment Impact Assessment (EIA)

- 8.1. The development falls within Schedule 2 Category 10(b) Urban Development Projects of The Environmental Impact Assessment Regulations 2017 (as amended) and exceeds threshold (i) due to the development site being over 1 hectare. As such the Council as Local Planning Authority have screened the development and found that it is not EIA development and no Environmental Statement is required to be submitted with the application. The Screening Checklist which acts as the report and decision is available to view on the Council's website. Nothing has changed since the Screening Decision and it is still effective for the Committee Decision. No conditions are required to rule of a likely significant environmental effect.

9.0 Main Issues

- 9.1. The key considerations in the assessment of this application are:
- Principle of the development;
 - Impact on the Town Centre;
 - Design, scale and form and impact upon the open countryside;
 - Highways safety and capacity;
 - Local amenity, public health and environmental protection;
 - Flood risk and drainage;
 - Contamination risks;
 - Biodiversity and ecological impact; and
 - Section 106 legal agreement.

10.0 ASSESSMENT

Principle of the Development

- 10.1. Policy SP1 (General Location of Development and Settlement Hierarchy) of the RPLPS (2013) notes that Malton/Norton (the Principal Town) *"will be the focus for the majority of new development and growth, including the housing, employment and retail space"*.
- 10.2. Paragraph 85 of the NPPF (2023) states: *"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future."*
- 10.3. Policy SP6 (Delivery and Distribution of Employment/Industrial Land and Premises) of the RPLPS (2013) relates to employment/industrial land and the site falls within land allocated for that purpose (Policy SD12 of the LPSD). Policy SP6 supports expansion land and new buildings for major employers/established businesses in this location.
- 10.4. The purpose of the employment land allocation is to attract business investment and create local employment opportunities at a site that is well positioned in relation to

the Principal Town and strategic road network. The application site benefits from outline planning permission and a site allocation which establishes the principle of an employment generating land use. The outline application was accompanied by an indicative Site Layout Plan within which the eastern area (which the application site falls within) was identified as providing industrial, offices and workspace.

- 10.5. The proposed development also has the potential to make the business park a more attractive option for industrial and commercial operators considering investment in the area. The proposal will serve the local market, those employed at the business park and passing traffic on the A169 (north and south bound traffic) and the A64 (east and west bound traffic). The proposal provides an opportunity to take advantage of linked trips and is a use which can be considered complementary to the approved petrol filling station to the south (lawfully commenced but not yet built).
- 10.6. Whilst not a traditional employment use the proposal will still generate a not insignificant amount of employment. The Economic Statement accompanying the application forecasts that the development construction phase would generate 45 direct FTE construction jobs as well as supporting a further 55 indirect FTE jobs. Furthermore, once complete and operational, the development would generate employment for 100 direct FTE jobs on-site. Other positive economic benefits include an additional £4.9 million of Gross Value Added (GVA) during construction and an additional £4.1 million of GVA per annum through direct operational employment.
- 10.7. It is considered that in light of the existing supply of vacant plots within the Business Park awaiting development and the adjacent land being identified as a 'Broad Location for Future Employment' it is unlikely the proposed development would result in a shortfall in land availability for employment uses in the locality. Similarly, the proposed development would not inhibit the future relocation Malton's livestock market to a purpose-built facility at the allocated site.
- 10.8. The proposal represents a mixed Use Class E(b) and Sui Generis use for the sale of food and drink for consumption on the premises and off the premises. The recent approvals for the Ripon Farm Services building (ref. 21/00981/MFUL) and the petrol filling station (ref. 19/00757/FUL) illustrate the flexibility of employment uses built into the outline permission.
- 10.9. The proposed development would enhance economic activity and create employment that would comply with the aims of Policy SP6 of the RPLPS (2013) and is considered to be acceptable in principle. It is relevant to note that the outline planning permission also allows for a degree of Class A1, A2 and A3 floor space (non- Use Class E) which establishes the principle of some non-Class B floorspace at the site.

Impact on the Town Centre

- 10.10. Section 7 of the NPPF (Ensuring the vitality of town centres) highlights that planning decisions should support the role that town centres play at the heart of local communities. Within the Local Plan Strategy Policy SP7 of the RPLPS (2013) supports proposals which maintain and enhance the vitality and viability of the Town Centre. It is at this point that the café and restaurant elements would be proposals

which the LPA would expect to be located within the town centre, or be subject to sequential assessment.

- 10.11. The NPPF glossary of terms defines ‘main town centre uses’ and includes drive-thru restaurants. The NPPF, at paragraphs 90 and 91, sets out a sequential test to guide main town centre uses towards town centre locations first, then if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations. Local Plan Policy SP7 (Town Centres and Retailing) of the RPLPS (2013) also has this requirement.
- 10.12. Paragraph 92 of the NPPF (2023) identifies that: *“When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored”*.
- 10.13. The sequential test assesses whether there are other suitable, available or viable sequentially preferable sites which could accommodate the proposed development. The sequential test provides for appropriate flexibility in the development proposed but there is no requirement to consider disaggregation i.e. whether parts of the proposal could be located in the town centre or in an edge of centre location.
- 10.14. Planning practice guidance acknowledges that the use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. In this case the proposal is not for conventional restaurants but 3no. freestanding drive-thru’ restaurant units which by definition require vehicular access and circulation through or around the buildings.
- 10.15. The application is accompanied by a sequential test which sets appropriate site search parameters and adopts a suitable identification methodology. The sequential test identified four potential sites and assessed availability, suitability and viability. The sites assessed were: Former ATS site, Commercial Street, Norton; Livestock Market, Market Place, Malton; Wentworth Street Car Park, Malton; and the former car dealerships, York Road, Malton.
- 10.16. The assessment confirms that even when allowing for an appropriate degree of flexibility, none of the identified sites can be considered suitable, viable and/or available for the development proposed. It is agreed that a site elsewhere would not serve both traffic on the A169/A64 or service and compliment the requirements of employees at, and visitors to, the strategic employment development which is being delivered on the wider site.
- 10.17. The site is considered to be locationally appropriate for the nature of the development proposed and it would not undermine the strategy or policies of the Development Plan as they relate to the principal town and the development proposed. As a result, the application is considered to comply with the sequential approach to site selection and is in accordance with the NPPF and Policy SP7 of the RPLPS (2013).
- 10.18. It should be noted that a retail impact assessment is not required as the development is below the thresholds set out within paragraph 94 of the NPPF (2,500m²) and Policy SP7 of the RPLPS (2013).

Design, scale and form and impact upon the open countryside

- 10.19. Paragraph 135 of the NPPF (2023) states that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- 10.20. Policy SP16 of the RPLPS (2013) states that *“Development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which: Reinforce local distinctiveness ; Provide a well-connected public realm which is accessible and usable by all, safe and easily navigated; and Protect amenity and promote well-being”*. The policy goes on to state *“To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings”*.
- 10.21. Policy SP20 of the RPLPS (2013) states that *“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”*.
- 10.22. The site is situated towards the southern side of the Vale of Pickering. The site is relatively flat land within a growing Business Park with a wider rural setting interspersed by small woodland blocks and woodland belts. In terms of nearby vantage points there are no public rights of way in close proximity to the site but the site is clearly visible from the public highway to the east.
- 10.23. The majority of the occupiers of plots immediately adjacent to the application site and within the wider business park occupy large, utilitarian buildings with predominately blank facades suited to their industrial/commercial use. In contrast the proposed single storey units are considered to be ‘human scale’ being of a much reduced size and more modest proportions in comparison to the adjacent industrial/commercial buildings within the business park. The result would be a diminishing hierarchy of buildings when the business park is viewed west to east towards the main road. In addition the unit nearest the road (Unit 1) incorporates a stepped roof line to break up the form and bulk of the building.
- 10.24. The proposed units would be located in a visually prominent position on the eastern edge of the business park and it is considered that the land use is suited to this road side plot with good visual permeability for passing drivers. The site layout illustrates that the units can be appropriately spaced without resulting in a crowded or overdeveloped appearance to the plot.
- 10.25. The materials palette for existing buildings within the business park is dominated by light grey and off white coloured profiled steel composite sheeting. The exception is the adjacent building to the west (Ripon Farm Services) which includes a showroom and provides visual interest with large areas of curtain glazing to the front elevation.
- 10.26. The design, materials and external appearance of the proposed units is standardised to fit the corporate identity of the intended occupier with a focus on a contemporary

aesthetic with external materials consisting of glazing, timber and composite cladding panels.

- 10.27. The proposed materials seeks to provide a degree of visual interest to soften the appearance of the buildings through the use of recessive colours to external wall panels and natural materials such as timber cladding. External flues and ventilation/extraction units would be discreetly positioned to the rear of each unit or within the roof parapet.
- 10.28. The proposed buildings are relatively low profile and the established tree planting to the north provides a sense of enclosure and separation from the wider open countryside. The site layout ensures the buildings and hardstanding are subject to a suitable stand off from the established woodland belt to the north which would be protected during the construction phase.
- 10.29. The existing woodland planting to the north forms a backdrop for the development and the proposed landscaping scheme is well-considered and varied and would create a visually attractive approach to the Business Park. Green buffers along the site periphery would soften the appearance of the site and provide a degree of screening to the main car park area.
- 10.30. Overall, it is considered that the development, in the context of the wider of the business park site, would not have an adverse impact on the character of the area and the development exhibits a design quality that meets the requirements of Policies SP16 and SP20 of the RPLPS (2013).

Highways safety and capacity

- 10.31. Policy SP20 (Generic Development Management Issues) of the RPLPS (2013) 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”*.
- 10.32. Paragraph 115 of the NPPF (2023) 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”*.
- 10.33. The application is accompanied by a Transport Assessment; Travel Plan; and a Highways Technical Note. Due to the site’s proximity to the A64 the Local Planning Authority has consulted with National Highways in addition to the Local Highway Authority (LHA).
- 10.34. The site will be accessed via an existing priority junction on the Ripon Farm Services access road which joins Edenhouse Road and in turn links to the A169 roundabout to the east. The LHA is satisfied with the access arrangements confirming that the road widths and alignment allow access for both motorists and larger services vehicles.
- 10.35. The site has a good level of accessibility and, whilst it is clear that the development would primarily serve those visiting the site by car, as acknowledged by the LHA, the site benefits from suitable footpath provision for pedestrians. In addition the applicant’s

Travel Plan seeks to promote active and sustainable means of travel for staff as well as customers and highlights that the site is in close proximity to a bus stop on the A169.

- 10.36. Within the site there will be 99 car parking spaces and 18 bicycle parking spaces to serve the three units which aligns with adopted standards. In addition the development will incorporate electric vehicle charging points.
- 10.37. The proposed site layout provides for service vehicle manoeuvres with each unit having a dedicated delivery bay. The LHA has highlighted that management of traffic through the car parks would be needed at delivery times.
- 10.38. With regard to vehicular traffic the highways officer notes that the predicted trip generation for the development (3 drive thru units) would be a maximum peak hour flow of 200 trips on weekdays.
- 10.39. There is local concern from the Town Council and individual members of the public in relation to the highways impact but it is relevant to note that the site allocation (employment use) and the outline permission envisaged that development of the site would inevitably involve vehicular traffic and increased trip generation.
- 10.40. With regard to the current proposal a significant proportion of the trips associated with the drive thrus are expected to already be on the road network, either passing by the site on the A169, diverting from elsewhere, or forming part of a linked trip. The LHA note that survey data from similar developments indicate that around only 35% of the 200 trips could actually be new traffic on the network.
- 10.41. The highways officer has confirmed that despite the traffic associated with the development both the A169 roundabout and A64/A169 roundabout would continue to operate within capacity.
- 10.42. There are no National Highways objections subject to a condition to secure a construction management plan. There are no LHA objections to the proposed development but it is recommended that conditions are applied to any permission granted to secure the provision of parking and turning areas; travel plan delivery; construction management; a service vehicle delivery plan; and a contribution of £5000 for Travel Plan monitoring.
- 10.43. It is considered that the site can be developed for 3no. drive thru units without resulting in an adverse effect on highway safety or capacity and complies with the requirements of the NPPF and Policy SP20 of the RPLPS (2013).

Local amenity, public health and environmental protection

- 10.44. As required by Policy SP20 (Generic Development Management Issues) of the RPLPS (2013) 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.
- 10.45. Generally, the proposed land use has the potential to have a prejudicial impact on residential amenity due to noise, disturbance, fumes and odours, litter and late night activity.

- 10.46. The application site is within an allocated business park which is remote in relation to residential properties with the closest being over 600 metres from the site. It would be necessary for each unit to incorporate plant and equipment for refrigeration, air conditioning and ventilation, however, due to the separation distance from sensitive residential receptors no noise or odour related concerns are anticipated. The site's location detached from the nearest settlement lends itself to 24 hour opening with negligible impacts. The Council's Environmental Health Officer (EHO) has confirmed no objections.
- 10.47. There are local concerns in relation to light pollution and the Council's EHO has requested control over lighting levels. The application is accompanied by a Lighting Assessment and CGI images to illustrate lighting levels in the evening. The lighting design seeks to minimise the impact during hours of darkness within the site and surrounding area. It is evident that the external lighting will only illuminate the road and car park surfaces and minimal light would fall onto the buildings.
- 10.48. The applicant has explained that light spill is controlled by purpose-made spill shields, avoiding light spill onto the woodland areas. The luminaire chosen has a Dark Sky Approval Certificate which will protect and preserve the natural night-time environment. Lighting control will also take account of illuminated signage associated with each unit and it is considered reasonable to impose a condition to control the external lighting scheme.
- 10.49. The Police Designing Out Crime Officer (DOCO) is satisfied with the overall design and layout of the proposed scheme but notes that from a crime and disorder perspective drive-thru restaurants are often described as 'Honey Pots', where people congregate and linger particularly in the evening.
- 10.50. It is noted that the site is at the entrance to the business park adjacent to a main road which will allow for a good level of passive surveillance and within the site it is anticipated that each unit will benefit from CCTV. However, the Police DOCO has recommended that the applicant produces a comprehensive Management Policy, to demonstrate how they have considered crime and disorder and what measures they intend to put in place to reduce the likelihood of an increase in these levels.
- 10.51. There are local concerns that development of this nature has the potential to increase littering in the locality once operational. It is understood that drive thru companies generally operate with a litter patrol policy with a defined litter pick zone together with litter bins being provided across the site. Ultimately, those members of the public who drop litter are committing an offence, nevertheless, it is considered prudent to impose a condition requiring a Litter Management Plan for each unit to be agreed prior to the unit being brought into use.
- 10.52. The LPA has received representations which raise concerns about health, fast food and links to childhood obesity. It is acknowledged that drive thru restaurants are generally operated by chain businesses with menus which are not weighted towards healthy options. The NPPF (2023) states that planning decision should, *inter alia*, enable and support healthy lifestyles. There is nothing to prevent the sale of healthy food choices and behavioural or consumer choices regarding the nature (and healthiness) of food purchased from such uses are not the subject of any relevant Development Plan policies, and there are no schools immediately nearby or within reasonable walking distance. In light of this the concern is not deemed to be significant in the planning balance.

- 10.53. It is considered that subject to conditions being imposed the proposed development would not give rise to a material adverse impact on the amenity, health or crime in the locality in compliance with the NPPF and Policy SP20 of the RPLPS (2013).

Flood Risk and Drainage

- 10.54. 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.
- 10.55. The site is within Flood Zone 3, a high flood risk area although the proposed development is classified in NPPF technical guidance as a 'less vulnerable' use and is appropriate in Flood Zone 3. The application is accompanied by a site specific Flood Risk Assessment and Drainage Impact Assessment.
- 10.56. It is noted that the plot is served by a privately maintained foul water network. With regard to surface water the development proposes 0.724 ha of impermeable surfacing and surface water is to be directed to open swales which, in turn, link to the attenuation pond to the south-west which discharges to Riggs Drain at a controlled rate of 1.4 l/s/Ha.
- 10.57. It is proposed that the surface water flooding risk is addressed by raising the site levels be 300mm above existing level to provide continuous falls to positively drained systems and remove any irregularities in the existing ground. In addition the minimum building finished floor level is set at 21.650m AOD thus providing an additional 500mm freeboard cover over the minimum required. The Environment Agency have confirmed no objections subject to the development being implemented in accordance with Flood Risk Assessment.
- 10.58. No objections have been raised by either the Internal Drainage Board or Yorkshire Water with the latter confirming the acceptability of the Drainage Impact Assessment subject to compliance being secured by condition.
- 10.59. The Flood Risk Assessment (FRA) demonstrates that the development can be deemed to be safe throughout its lifetime without increasing flood risk elsewhere.
- 10.60. The LLFA have reviewed the updated Drainage Impact Assessment and have stated that it does not include all of the requested information as detailed within their earlier consultation response. Further information is required in relation to peak flow control, volume control and hydraulic model and allowance for climate change. The LLFA suggests that the information requested is provided prior to determination as it is not clear that the surface water can be managed on or off site without causing increased risk.
- 10.61. The NPPF and Policy SP17 of the Local Plan Strategy require the Local Planning Authority (LPA) to direct development to areas with lowest probability of flooding (a risk based sequential approach). Paragraph 168 of the NPPF (2023) states that *'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding'*.
- 10.62. The application is accompanied by a sequential test. Planning Practice Guidance requires alternative sites to be in a suitable location for the type of development proposed. The proposed development is intended to serve the passing motorist, users of the petrol filling station and employees of the wider business park. With this and the result of the retail sequential test (discussed earlier in this report) in mind the possible suitable sites was narrowed down to the same four considered earlier in this report.

- 10.63. The four sites have been assessed and were considered to be either unsuitable, unavailable, unviable or not sequentially preferable by virtue of location.
- 10.64. The sequential test demonstrates that there are no reasonably available sites in the area with a lower probability of flooding that would be appropriate for this type of development and as a result complies with the requirements of the NPPF and Policy SP17 of the RPLPS (2013). It is not necessary to consider the Exception Test, due to the 'less vulnerable' nature of the proposed development.

Contamination risks

- 10.65. The Council's EHO notes that the outline application (ref. 14/00426/MOUTE) was supported by a Phase I desktop report which recommends an intrusive site investigation (Phase II) is undertaken to quantify the risks set out in the conceptual site model of the Phase I desktop report. The Phase II report should be completed prior to the commencement of the proposed development.
- 10.66. It is recommended that, in order to satisfy the requirements of Policies SP17 and SP20 of the RPLPS (2013), the full suite of standard contaminated land conditions are applied to any grant of permission.

Biodiversity and ecological impact

- 10.67. Policy SP14 of the RPLPS (2013) aims to conserve and enhance biodiversity through the prevention of loss of habitat or species and the incorporation of beneficial biodiversity features.
- 10.68. The application is accompanied by a Preliminary Ecological Appraisal (PEA) and Biodiversity Net Gain Assessment and calculations. The PEA has been reviewed by the Council's Ecologist who notes that the site is mainly bare or sparsely vegetated ground of low ecological value and the risks to protected/important species are generally minor.
- 10.69. The proposed site enhancements include appropriate native species planting, retention and enhancement of hedgerows or replacement planting, wildflower seeding and incorporation of bird/bat nesting/roosting features. In addition precautionary working methods and/or mitigation have been recommended for badger, hedgehog, and breeding birds. The Council's Ecologist is satisfied with these proposals subject to the being secured by condition.
- 10.70. The application site is in close proximity to mature trees where there is potential for nocturnal wildlife and light sensitive species such as bats. The applicant proposes to implement a sympathetic lighting scheme that minimises illumination of trees and areas of new planting to the boundaries of the site. The Council's Ecologist notes that the lighting scheme has been approved by the applicant's ecologist and has no concerns.
- 10.71. Policy SP14 of the RPLPS (2013) and the NPPF require a net gain in biodiversity to be provided as part of new development schemes. This is not a scheme which is subject to the mandatory requirement for Biodiversity Net Gain by virtue of Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) due to it being made prior to the regulations being enacted. Nevertheless, the Council's Ecologist notes that the BNG assessment projects that large uplifts would be delivered via appropriate landscaping (312% for area-based habitats, 99% for hedgerows & 67% for ditches), which is amply compliant with policy.

- 10.72. The site falls within the Impact Risk Zone for the River Derwent Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). There is potential for adverse effects on the ecological integrity of the SAC/SSSI.
- 10.73. The applicant's Ecological Appraisal explains that there will be no adverse impact upon statutorily and non-statutorily designated sites as a result of the development due to a combination of distance from the proposal site, intervening land uses (roads and built up areas), pollution prevention controls, management of waste water on the site after development and the nature and scale of the proposals.
- 10.74. The Council's Ecologist agrees that due to its nature and location the proposed scheme is unlikely to have any direct or indirect impact on the SAC/SSSI provided pollution prevention measures (management of waste and surface water) are implemented during construction. The applicant's incorporate commitments to pollution prevention within the Ecological Appraisal and a condition shall secure the implementation of those measures.
- 10.75. Natural England have raise not raised any objections or notified the LPA that it is necessary to undertake an assessment under the Conservation of Habitats & Species Regulations 2017.
- 10.76. It is considered that the surface and foul water drainage infrastructure would be sufficient to reduce risks of pollution to a negligible level therefore likely significant effects on the SAC can be ruled out.
- 10.77. In light of the above 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.

Section 106 Legal Agreement

- 10.78. A Section 106 legal agreement will be required in line with Policies SP20 and SP22 of the Ryedale Plan Local Plan Strategy. The S106 will secure the Travel Plan monitoring commuted sum.

Table 1		
Category/Type	Contribution	Amount & Trigger
Travel Plan Monitoring	Financial	£5,000

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The general principle of development on this site is established through the employment land allocation (Policy SD12) in the Ryedale Plan- Local Plan Sites Document (2019) and the outline planning permission for industrial/commercial development at the site.
- 11.2 This proposal represents development that receives general support in principle from Policy SP6 of the Ryedale Plan- Local Plan Strategy (2013) with regard to expansion land and new buildings for major employers/established businesses. The proposal also aligns with the aims of the NPPF in relation to economic growth and

employment. In light of the site allocation and outline planning permission there are sustainability arguments in favour of this location for drive thru' facilities.

- 11.3 The proposal represents good design and the application has demonstrated that it satisfies both the Town Centre sequential test and the flood risk sequential test whilst also demonstrating no unacceptable harm to the landscape and visual amenity; highway safety and capacity or the environment.
- 11.4 In conclusion, the proposal is considered to be in general accordance with the policies contained in the Development Plan when read as a whole and with no other material considerations indicating otherwise, the application is recommended for approval subject to any further requirements of the Lead Local Flood Authority; the below list of conditions; and a Section 106 legal agreement.

12.0 RECOMMENDATION

- 12.1 That planning permission be **GRANTED** subject to any further requirements of the LLFA and subject to conditions listed below and the completion of a Section 106 legal agreement with terms as detailed in Table 1.

Recommended conditions:

Commencement time limit

- 1 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

Approved plans

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan ref. 00_01 Rev A, dated 27.10.2023
 Proposed Site Plan ref. 01_01 Rev C, dated 27.10.2023
 Site Sections ref. 01_03 Rev A, dated 27.10.2023
 Proposed Unit 01 Drive Thru ref. 02_01 Rev C, dated 27.10.2023
 Proposed Unit 02 Drive Thru ref. 02_02 Rev D, dated 27.10.2023
 Proposed Unit 03 Drive Thru ref. 02_03 Rev E, dated 11.03.2024
 Landscape Proposals ref. LL01 Rev A, dated 01.11.2023

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

Phasing

- 3 No development shall commence until a detailed construction phasing plan has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory progression of construction works in compliance with Policy SP20.

Materials (surfaces)

- 4 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 in compliance with Policies SP16 and SP20.

Materials (samples)

- 5 Prior to the commencement of any aboveground construction work for each unit details and samples of the materials to be used on the exterior of the unit 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 Policies SP16 and SP20.

Boundary treatments

- 6 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 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 appearance of the locality in compliance with Policies SP16 and SP20.

Provision of Approved Access, Turning and Parking Areas

- 7 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 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 appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in compliance with Policy SP20.

Travel Plan Delivery

- 8 The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

Reason: To establish measures to encourage more sustainable non-car modes of transport in compliance with Policy SP20.

Construction Management Plan

- 9 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. staffing numbers and 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. construction traffic routes;
6. measures to manage the delivery of materials and plant (including any abnormal loads) to the site including routing and timing of deliveries and loading and unloading areas;
7. protection of contractors working adjacent to the highway;
8. pollution prevention measures including noise and dust management;
9. details of site working hours;
10. details of external lighting equipment;
11. a detailed method statement and programme for the building works; and
12. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: To safeguard the operation and free flow of traffic on the Strategic Road Network and in the interest of public safety and amenity in compliance with Policy SP20.

Litter Management

- 10 Prior to each unit hereby approved being brought into use a Litter Management Plan for that unit shall be submitted to and approved in writing by the Local Planning Authority. The litter management plan should confirm the operator's litter management policy and detail litter patrols (frequency and coverage), provision of bins and signage within the site. Thereafter, the development shall be carried out in accordance with the approved details for the lifetime of the development.

Reason: In the interest of the general amenity of the area in compliance with Policy SP20.

Landscape planting

- 11 Unless otherwise agreed in writing with the Local Planning Authority all planting, seeding or turfing set out in the approved drawing Landscape Proposals ref. LL01 Rev A, dated 01.11.2023 shall be carried out in accordance with the approved phasing plan (Condition 3) 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 good standard of landscaping in compliance with Policies SP16 and SP20.

Tree Protection

- 12 All works shall be carried out in accordance with the approved Arboricultural Survey Report dated October 2023 produced by Smeeden Foreman Ltd unless any variation is first agreed in writing by the Local Planning Authority. No site clearance or construction work shall commence on site in connection with the development hereby approved until the root protection areas (RPA) and protective fencing required by the Arboricultural Impact Assessment Plan and Tree Constraints Plan (contained within the approved Arboricultural Survey Report) are in place. The developer shall maintain such fences and ground protection until all development the subject of this permission is completed.

Reason: To preserve trees and hedges adjacent to the site in the interests of visual amenity and the character of the area in compliance with Policies SP16 and SP20.

Drainage

- 13 The development hereby approved shall be carried out in accordance with the submitted Drainage Impact Assessment ref. 4656-JPG-XX-XX-RP-D-0633-S2-P05 produced by JPG Ltd, dated 22.02.2024, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage in compliance with Policy SP17.

Flood Risk

- 14 The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment ref. 4656-JPG-XX-XX-RP-D-0631-S2-P05 produced by JPG Ltd, dated 15.02.2024 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 21.650 metres above Ordnance Datum (AOD)

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the NPPF and Policy SP17.

Ecology

- 15 All works shall be carried out in accordance with the recommendations of the Ecological Appraisal Revision B, dated December 2023 produced by Smeeden Foreman Ltd.

Reason: To secure appropriate ecological mitigation and enhancement to comply with the requirements of Policy SP14.

External Lighting

- 16 Details of any external lighting to be used on the site shall first be submitted to and approved in writing by the Local Planning Authority prior to its installation/erection in that phase of development. The information shall include a layout plan with beam

orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting. Thereafter the artificial lighting shall be installed, operated and maintained in accordance with the approved scheme.

Reason: In the interests of amenity, ecology and minimising light pollution in compliance with Policies SP14, SP16 and SP20.

Sustainable travel

- 17 Cycle hoops for customers and secure cycle storage for staff for each unit shall be installed prior to each unit being brought into use.

Reason: To encourage the use of modes of transport other than private vehicles in the interests of sustainability in compliance with Policy SP20.

Electric Vehicle Charging Points

- 18 Prior to the commencement of any aboveground construction work a scheme for the provision of electric vehicle charging points across the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the EV charging points for each unit shall be installed in accordance with the approved details prior to each unit being brought into use.

Reason: To promote sustainable transport and in accordance with the development principles for the site in compliance with Policy SP18.

Contamination

- 19 Development shall not begin until an investigation and risk assessment of land contamination has been completed by competent persons and a report of the findings submitted to and approved in writing by the Local Planning Authority. This shall 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, controlled waters, property and ecological systems. Reports shall 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.

- 20 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.

- 21 Unless otherwise agreed in writing by the Local Planning Authority, the dwelling shall not be occupied (or the site shall not be brought into use) 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.

- 22 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.

Crime prevention

- 23 Prior to any unit being brought into use a comprehensive Management Policy shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take account of the observations, advice and recommendations contained within the Designing out Crime Report ref. 527-1-2023, dated 21 November 2023 and demonstrate how the operators have considered crime and disorder and what measures they intend to put in place to reduce the likelihood of an increase in these levels.

Reason: To satisfy paragraphs 96 and 135 of the NPPF and Policy SP16.

INFORMATIVE

Contamination - The Phase I desktop survey (MT/DS/4656v2) submitted in the 14/00426/MOUTE application is acceptable and can be used, but in addition a Phase II site investigation is also required to quantify the risks set out in the conceptual site model of the Phase I desktop report.

Target Determination Date: 08.02.2024

Case Officer: Alan Goforth, alan.goforth@northyorks.gov.uk

North Yorkshire Council

Community Development Services

Thirsk and Malton Area Constituency Committee

21 MARCH 2024

22/00102/FUL: Change of use of land to a gypsy/traveller site with 4no family pitches each with 1no static caravan, 1no touring caravan pitch and parking spaces, erection 1no. amenity building and installation of 1no bio-disc treatment plant with associated parking and landscaping land at Cornborough Road, Sheriff Hutton, North Yorkshire

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 to a traveller site at Cornborough Road, Sheriff Hutton.
- 1.2 The application is referred to committee for determination on the basis of the Planning issues raised by the application.

2.0 EXECUTIVE SUMMARY

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

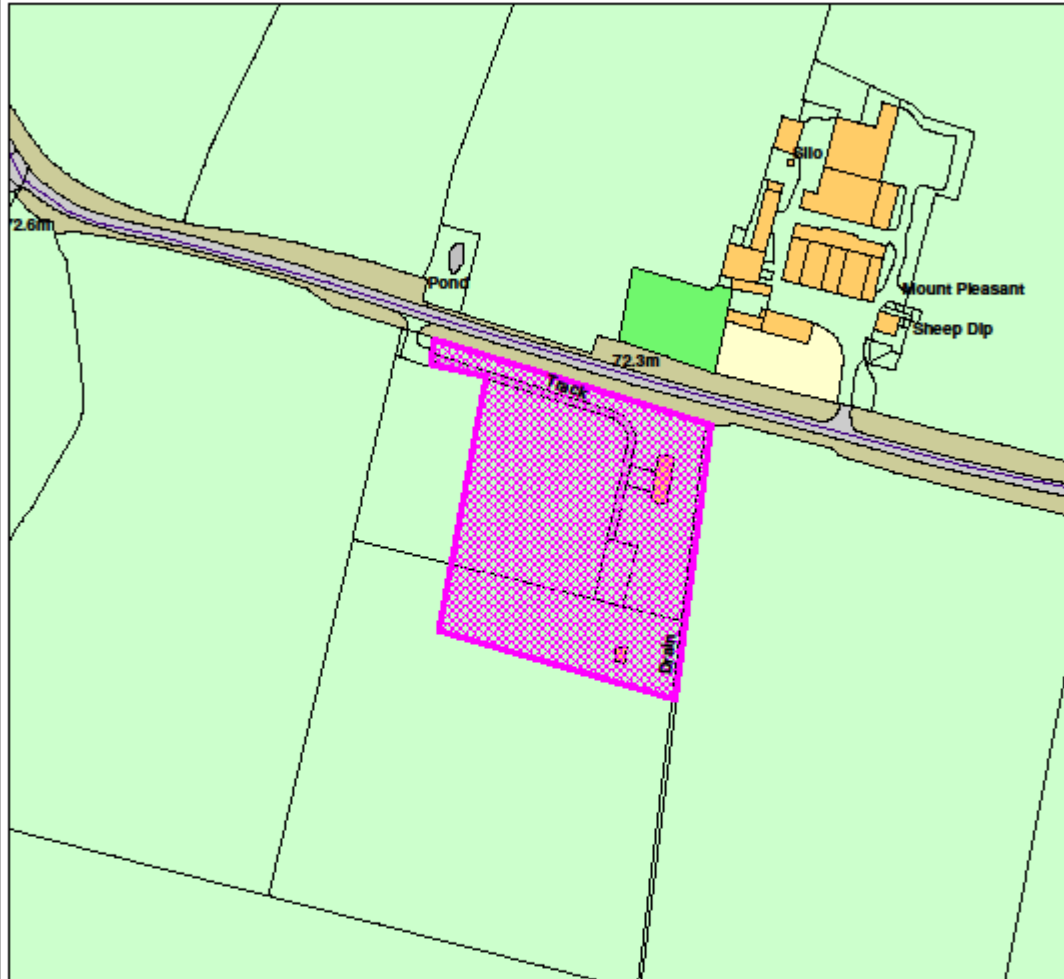
- 2.1 The site is not allocated for the use proposed and the site is not covered by any specific landscape, flood risk or other policy constraint. The proposal seeks planning permission for a four pitch traveller site. The family are currently occupying the land which the applicant owns.
- 2.2 Amongst other relevant considerations, the proposal has been carefully considered against the relevant criteria of Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) and paragraph 24 of the national Planning Policy for Traveller Sites (2023).
- 2.3 The site is located in open countryside to the west of Sheriff Hutton and is a location where, in principle, new traveller site development should be strictly limited. The proposal will have a landscape impact, which will be mitigated in part by proposed landscaping.
- 2.4 Notwithstanding its location in the open countryside, the location of the site is considered to provide reasonable access to local services and facilities and the proposed design is considered to meet design and layout requirements which ensure acceptable pitch standards, sufficient car parking and amenity space. The proposal is not disproportionate in scale to the size of the nearest settled community and it is considered that the proposed use in this location will not result in unacceptable harm to the residential amenity of neighbouring residents or have an adverse impact on surrounding neighbouring land uses.
- 2.5 The identified long term need for additional pitch provision, limited alternative provision and the personal circumstances of the applicant and his family (including the best interests of children at the site) weigh in favour of the proposal and are

considered, on balance to outweigh harm to the character and appearance of the landscape and the location of the site in the open countryside.

- 2.6 The application is for the change of use of the land which is sought on a permanent basis. In the context of the spectrum of the ages of the children at the site, it is considered that a temporary permission would not be appropriate in these circumstances. On the basis that the personal circumstances of the applicant and his family have weighed significantly in the consideration of the application, a personal condition restricting occupancy of the site to the applicant and immediate family members is recommended. Such a condition would mean that the permission would not be an in-perpetuity change of use of the land, although it should be noted that future applications could be made to vary the condition as dependents become adults. Any such application would be determined on its merits.
- 2.7 The approach is consistent with the aim of national policy which is to promote more private site traveller provision. It is also consistent with the findings of the recent (2022) Gypsy and Traveller Assessment for this part of North Yorkshire which recognises the need for additional private site provision.

22/00102/FUL

Not Set



Scale: 12,314

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	11/03/2024
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 proposed site plan is at Appendix 1.

- 3.3 The application is also accompanied by another application (ZE23/00437/FUL) which seeks to regularise changes to the external appearance of the existing kennel/agricultural 'style' building at the site and the use of this building. This application is the next item on this agenda.

- 3.4 Relevant planning application history is outlined below:

13/00863/FUL: Erection of an agricultural building for the storage of produce and housing of livestock. Approved.

13/01461/FUL: Siting of two bedroom timber cabin for use as a temporary rural workers dwelling to include formation of access track and hardstanding, and provision of a domestic curtilage (retrospective application). Refused and s.78 appeal dismissed.

15/00601/FUL: Retention of timber cabin for use as an office, staff facilities, storage area and incubator area. LPA declined to determine.

19/00603/FUL: Change of use of agricultural land and building for commercial dog breeding and kennels with alterations to include formation of up to 10no.kennels within the existing building. Approved.

4.0 Site and Surroundings

- 4.1. The site is situated to the west of Sheriff Hutton and south of the Cornborough Road. The application site area covers just under one hectare of land which slopes gently in a north - south direction. Vehicular access to the site is from the Cornborough Road via an existing access in the north western corner of the site. An access road within the site runs parallel with the Cornborough Road and leads to an area of hardstanding and a modern steel framed/ metal clad agricultural 'style' building. There are currently 7 caravans sited in this area which are occupied by the applicant and members of his family. The area is also currently used for the parking of vehicles and associated domestic paraphernalia, including dog kennels and children's play equipment. The remainder of the site is currently rough grassland and is used for the siting of chicken huts which support the applicant's hobby of rearing rare breed poultry. The application site is within the ownership of the applicant.

- 4.2. A further area of land (approximately 2.15ha) is also in the applicant's ownership. This includes a field to the south which currently comprises rough grassland. A public footpath runs parallel with the southern boundary of this land. It also includes a section of the field to the west of the application site. Mature hedging bounds much of the extent of the northern and eastern boundaries of the site and wider land in the applicant's ownership. Post and Rail fencing delineates the southern and western boundaries of the land within the applicants control.

- 4.3. The application site is located approximately 1.2 km to the west of Sheriff Hutton Village and in the rolling open countryside which sits between the Howardian Hills and the Vale of York. Sheriff Hutton village itself benefits from a range of local services and amenities including a bus service, primary school, public houses, café, village shop and village hall with associated children's play facilities.

5.0 Description of Proposal

- 5.1. The application proposes the provision of four Gypsy and Traveller pitches laid in a square arrangement in the north western part of the site. Each pitch is proposed to include a static caravan, a space for the siting of a touring caravan and two car parking spaces with an area of tarmac hardstanding. 4 ft panel fencing and native hedging is proposed to delineate the perimeter of each pitch. The application is supported by a Design and Access statement which includes images of a typical static caravan to illustrate scale and appearance of the nature of the accommodation proposed.
- 5.2. An amenity block is proposed to be located to the south of the four pitches. The building is proposed to include a day room and communal kitchen and dining facilities, a bathroom and shower rooms and a laundry room. The building is proposed to be 15m by 8.2 metres with a dual pitch roof. It will be 4.7m high to the ridge and 2.7m to eaves height. The plans indicate that the amenity building is proposed to be brick built under a grey tile roof. Four visitor parking spaces and a children's play area are proposed to be located adjacent to the amenity block building.
- 5.3. The application site area also includes a strip/ section of grassland across the length of the southern boundary of the site. This area is proposed to be reserved for the re-siting of the chicken huts. A grassed area of land beyond the western edge of the application site boundary is annotated on the site plan as a dog exercising area. This area relates to the use of the existing kennel / metal clad building at the site and is addressed in application ZE23/00437/FUL.
- 5.4. The existing access track is located along the northern boundary of the site and the application seeks retrospective permission for the surfacing (grading and gravelling) of the track and the wider eastern area of the site which surrounds the existing utilitarian/ metal clad building. Retrospective permission is also sought as part of the application for the installation of a bio-disc treatment plant in the south –eastern part of the site.
- 5.5. Existing established native hedging along the northern and eastern boundaries of the site is proposed to be retained. New native hedge planting is proposed along the western and southern site boundaries with areas of new tree planting between the access track and the proposed pitches.
- 5.6. The applicant and his extended family are Romany Gypsies. It is proposed that the site will provide accommodation for the applicant and his wife together with members of their immediate family and their dependents which currently includes nine children. Prior to moving onto the land, the Design and Access Statement confirms that the

applicant had been travelling and working away for some time while Mrs Sykes and some family members had been living at the Council's Tara Park site.

- 5.7. There have been some, relatively minor revisions to the scheme and supporting information after the application was received and initially consulted on. These include a revised red line plan; changes to the internal spaces within the amenity building; inclusion of gravel access and surfacing and former agricultural building within the site area; inclusion of area for relocated chicken huts and an addendum to the Design and Access Statement.
- 5.8. Information supporting the application summarises the reasons why the applicant is seeking planning permission for the development proposed. These include personal circumstances of the family and insufficient existing pitches to meet identified need. The Design and Access Statement also notes that an on-site presence will help the family to establish and manage a dog breeding business. These matters are considered in the appraisal section of the report.

6.0 Legal Duties and Responsibilities

- 6.1 Members will be aware that specific considerations of matters of law are relevant in this case

Human Rights

- 6.2 The Human Rights Act 1998, incorporates the European Convention on Human Rights into domestic UK law, meaning that the Local Planning Authority must not act in a way that is incompatible with the rights set out therein. The Authority must therefore show that it has properly considered the rights and freedoms of the applicant and his family.
- 6.3 Article 8 provides that *'Everyone has a right to respect for his private and family life, his home and his correspondence'* and continues : *'There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of disorder or crime , for the protection of health or morals or for the protection of the rights and freedoms of others'*.
- 6.4 The Courts have also confirmed that there is a positive obligation by virtue of Article 8 of the Human Rights Act to facilitate the Gypsy way of life.
- 6.5 Notwithstanding this, Article 8 is a qualified right and interference with it can be justified if this is necessary in a democratic society for the protection of the rights and freedoms of others and is proportionate.
- 6.6 Article 1 of the first protocol to the convention states that every person is ' entitled to the peaceful enjoyment of his possessions (which includes the rights over land). The rights of the state to *'enforce such laws as it deems necessary to control the use of property in accordance with the general interest'* are expressly preserved.
- 6.7 Article 14 states that rights under the convention is to be secured *' without discrimination on any ground such as Race....'*

- 6.8 In the exercise of its powers, the Local Planning Authority needs to be mindful of these issues. If planning decisions are made following the correct procedure, in accordance with the development plan and taking all material planning considerations into account and are in the public interest, then there is no conflict with the Human Rights Act.

Equality

- 6.9 The applicant and his family are Romany Gypsies. Romany Gypsies are defined as an ethnic group, a protected characteristic under the Equality Act 2010. Section 149 of the Act places a duty on all public bodies in the exercise of their functions to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - Advance equality of opportunity between people who share a protected characteristic and those who do not
 - Foster good relations between people who share a protected characteristic and those who do not
- 6.10 In summary, the Act explains that the second aim involves having due regard to the need to:
- Remove or minimise disadvantages suffered by people due to their protected characteristics
 - Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
 - Encourage people with protected characteristics to participate in public life
- 6.11 If the Council fails to have due regard to the matters identified above, it would fail to comply with its statutory duty. In applying development plan policy and taking account of all considerations that are material to this application, members of the committee will need to consider whether applying any of these policies or other considerations would have a disproportionate and negative impact on a racial group.

Rights of the Child

- 6.12 Members should also be aware that under the UN Convention on the Rights of the Child and the Children's Act 1989, the best interests of the child shall be a primary consideration in all decisions made by an administrative authority as a matter of law. This principle applies to planning decisions. Where site residents are children, consideration of their convention rights requires a child's best interests to be a primary consideration.

7.0 Planning Policy and Guidance

- 7.1 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

- 7.2 The relevant adopted Development Plan is the Ryedale Plan -Local Plan Strategy (2013). Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) is

specifically relevant to the application and contains criteria to be used to assess sites required to address identified needs. These are as follows:

- *‘Reasonable access to local services and community facilities*
- *The size of the site is sufficient to enable good design and layout in order to provide:*
 - *Adequate space for safe parking, turning and servicing*
 - *Pitch sizes that facilitate good quality living accommodation without overcrowding or conversely unnecessary sprawl*
 - *Facilities, service and amenity space of an appropriate standard*
- *The site is appropriate in scale to the nearest settled community and the impact on and from neighbouring land uses is considered acceptable*
- *Safe vehicular access to the public highway can be provided’*

Planning Policy Guidance

- 7.3 Relevant guidance which is a material consideration in the determination of the application is as follows:

National Planning Policy Framework (2023)
 Planning policy for traveller sites (2023)
 National Planning Practice Guidance
 Relevant Ministerial Statements

- 7.4 The National Planning Policy Framework (para 60) makes it clear that Local Planning Authorities are required to ensure that the needs of groups with specific housing requirements are addressed through the planning process. Footnote 28 of the NPPF notes that Planning Policy for Traveller Sites (PPTS) sets out how traveller’s needs should be assessed for those covered by the definition in Annex 1 of the document.
- 7.5 PPTS makes it clear that the Governments overarching aim is to ensure *‘fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community’*. The PPTS sets out the Governments eight aims for traveller sites. Amongst other things these include an aim to ensure needs assessments are prepared for the purposes of planning; to promote more private traveller site provision and to reduce the number of unauthorised developments.
- 7.6 The PPTS is drafted to reflect the plan-led system. It advises that Local Plans should (based on evidence of need) set pitch targets/requirements and identify and update annually a 5 year supply of deliverable sites against local targets and developable sites covering a 6-10 year period and where possible beyond. It also provides specific guidance in relation to the determination of planning applications for traveller sites.
- 7.7 Paragraph 24 makes it clear that LPAs should consider the following issues amongst other relevant matters, when considering planning applications for traveller sites:
- The existing level of local provision and need for sites
 - The availability (or lack) of alternative accommodation for the applicants
 - Other personal circumstances of the applicant
 - That the locally specific criteria used to guide the allocation of sites in plans should be used to assess applications that may come forward on unallocated sites

- Applications for sites should be determined for sites from any travellers and not just those with a local connection
- 7.8 The policy (paragraph 25) goes on to note that LPAs should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. It also notes that in rural areas, LPAs should ensure that sites respect the scale of and do not dominate the nearest settled community and that they avoid placing an undue pressure on local infrastructure.
- 7.9 Paragraph 26 of the PPTS notes that in considering applications, LPAs should attached weight to the following matters:
- Effective use of previously developed, untidy or derelict land
 - Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
 - Promoting opportunities for heathy lifestyles, such as ensuring adequate landscaping and play areas for children
 - Not enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community
- 7.10 The PPTS advises LPAs to consider how objections to proposals could be overcome using planning conditions or planning obligations.
- 7.11 The PPTS makes it very clear that the identification of need for pitches is based on those Gypsies and Travellers who meet the definition in Annex 1 of the document. This is as follows: *'Persons of a nomadic habit of life whatever their race or origin, including such persons who on the grounds only of their own or their family's of dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such'*.
- 7.12 Whilst the definition in national policy has always been a person of nomadic lifestyle, in 2015 this was amended to exclude Gypsies and Travellers who had stopped travelling and could not demonstrate that this was temporary. The Court of Appeal found this to be unlawful and discriminatory and recent revisions to the PPTS (December 2023) have addressed this to ensure that the definition for planning purposes covers those who have ceased to travel permanently.
- 7.13 Following the first version of the PPTS in 2015 and subsequent planning appeal decisions and caselaw, two Ministerial Statements were issued. One related to the specific interpretation of the NPPF (as drafted at that time) which related to housing land supply. Another confirmed that intentional unauthorised development is a material planning consideration to be weighed in the consideration of all applications. Whilst the latter has not been incorporated into the revised NPPF, the Ministerial Statement has not been cancelled and as such remains national policy.

Presumption in Favour of Sustainable Development

- 7.14 Both the Development Plan and the National Planning Policy Framework include policies which promote a presumption in favour of sustainable development to be applied in the decision making process. The purpose of the presumption is to ensure that sustainable development (interdependent social, economic and environmental

objectives) is pursued in a positive way. The national presumption does not change the statutory status of the development plan as the starting point for decision-making.

- 7.15 Paragraph 11 of the National Planning Policy Framework details how the presumption in favour of sustainable development is to be applied. In relation to decision-taking makes it clear that this means:

“approving development proposals that accord with the development plan without delay or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:

- *the application of policies in this framework that protect areas or assets of particular importance provides clear reason for refusing the development proposed or,*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole”.*

- 7.16 Policy SP19 of the Local Plan Strategy is consistent with the above national presumption but makes specific reference to the Local Plan and Neighbourhood Plans; working proactively with applicants, and clarifies the application of the second bullet of the national presumption. It states:

“When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions of the area.

Planning applications that accord with the policies in this Local Plan (and where relevant, with policies in Neighbourhood Plans) will be approved without delay unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework indicate that development should be restricted”*

8.0 Consultation Responses

The following consultation responses have been received and have been summarised below. Full comments are available to view on the Council’s web-site.

Parish Council

Object

- A previous application for the domestic use of this site has previously been refused
- Outside the Village Development Plan and not allocated for development in the Local Plan

- Inappropriate development in the open countryside, highly visible from the south from a great distance
- National policy states that LPAs should strictly limit new traveller sites in the open countryside
- Conflicts with SP20 which states that development should respect the character of the area without a material adverse impact on present or future occupants of neighbouring land or buildings
- Detrimental impact on the rural area – part of a previous refusal was due to the harm to the local landscape view particularly detracting from the castle ruins
- There are many available places on existing traveller sites within Ryedale and the wider area
- This is a retrospective application
- The site has not been used for the breeding of dogs so should not be classed as a change of use
- Amenity of existing neighbouring properties will be severely affected. Excessive noise is already an issue. The site is only 30m from its nearest neighbour.
- A large area has been put down to hard core with no drainage
- 8 units of accommodation mean more people living on the site and 12 car parking spaces means a significant increase in car usage as no facilities are in walking distance with no roadside footpaths
- The amenity block is not needed. The Parish believe it to be a bungalow
- The Planning application contains a number of inaccuracies

Following a reconsultation, the Parish confirmed that their initial comments still stood and added that:

- The application does not meet national requirements for new traveller sites
- Sufficient capacity exists at Tara Park and that it is not clear if the family have applied to live at Tara Park or if they have lived there

Division member

No comments received.

NYC Highways

No Objection – It is not considered that the proposal will have a significant detrimental impact on the highway network and as such there are no Local Highway Authority objections. A condition is recommended in relation to Access, Turning and Car Parking.

NYC Housing

No Objection in principle. The housing team revised earlier comments and confirmed that following the October 2022 GTAA it had no objection in principle to the proposal.

Local Lead Flood Authority

Initially requested further drainage details but subsequently confirmed that the application was not a major application and that it is not a statutory requirement for the LLFA to be consulted.

Yorkshire Water

Area is not served by the public sewer network and it is for the Environment Agency and Environmental Health to consider proposals

NYC Environmental Health

No comments received

Tree and Landscape Officer

No objection subject to details of how retained hedges will be protected during construction and landscaping, including full details of species, numbers and sizes.

NYC Ecology

Welcome the inclusion of native species hedging. The submission of further details (eg mix) could be provided by condition. If this was a new application, we would expect to see a Biodiversity Net Gain plan based on the current version of the Biodiversity Metric. However, we note that this application has been in the system for some time and dates to a time when 'in principle' delivery of biodiversity enhancements was acceptable as BNG

Local Representations

Local representations have been received, all of which are objecting to the application. A summary of the comments received is provided below. Full comments are available to view on the website, although it should be noted that some comments have had comments redacted which are considered to be inappropriate.

Amenity of Neighbours

- Negative /adverse impact on neighbours and neighbouring land use
- Affects the peaceful enjoyment of our property/ our human rights

Landscape Impact

- Detracts from the rural beauty/ peace/ unspoilt character and appearance of the area
- Not in keeping with the area
- Impact accentuated by elevated nature of the site

Location

- Should be located closer to a larger town with more amenities
- Outside of Development Limits
- Not in keeping with the local environment or community
- Not suitable location – close proximity could cause potential conflict which does not promote co-existence
- Unsuitable use in an unsuitable location
- Site is not allocated for development
- Green-field site
- Inappropriate size and use
- Government policy strongly discourages development of Traveller sites in the Open Countryside
- Sets a precedent for development outside of development limits
- Not a sustainable location. Access to services would be by car

Infrastructure/Highways

- Local amenities and infrastructure cannot support the development
- Unacceptable impact on road safety
- Would increase traffic at the roundabout which would be dangerous
- Lack of pedestrian access to the site
- Impact on traffic and residents of utility connections
- Lack of details around disposal of waste

- Lack of clean water supply/detail on electricity connections
- No information of oil/gas storage
- Lack of lighting detail
- No renewable energy provision
- A soakaway will not be adequate
- Concern about effluent quality
- No facilities in walking distance with no roadside footpaths
- Puts additional pressure on services - school is at its limits and roads are in need of repair

Alternative Provision and Personal Circumstances

- Established sites in Malton, York and Thirsk provide excellent facilities, have capacity and should be considered
- No need for additional pitches
- Unmet need is not proven
- Family were in Tara Park and the assertion that there are no alternatives are not valid
- Fact that the family were not content at Tara Park should not be a consideration
- Any Issues at Tara Park should be addressed/ are for the Council to address
- Council has addressed issues at Tara Park
- Unclear why the family needed to move when there was access to facilities and schools at Tara Park
- For the applicant to cite very special circumstances for children as the prime argument to outweigh harm to the countryside appears calculated and unproven. The children's welfare was catered for previously

General

- Concern over the number of people on the site and of it growing over time
- Sheriff Hutton has provided enough accommodation (houses/ caravans) in last five years
- Village needs a break from further development
- Potential traffic/parking problems. Overflow parking will spill onto a busy road
- Conservation Area protection (if applicable)
- No information relating to caravan licensing requirements
- Lack of clarity on who is responsible for running and maintain the site and length of stays
- Risk of over population of the site/ site increasing in size
- Criterion 3 of H6 not met
- A house has previously been refused on the site and the Council must presumably apply the same ruling
- Has more impact that the previously refused application at the site
- Can the number of residents be limited and how would this be enforced?
- Does not maintain the Green Belt/ is inappropriate development in the Green Belt
- Question whether housing would be passed to build in this location
- Increased Noise, light and air pollution
- Will decrease property values
- No positive benefit to the surrounding area
- Should be a retrospective application

- Demonstrates a disregard for proper procedure
- Public footpath to the south will be impassable without regular maintenance of the planted hedgerow
- Site should be used for more appropriate agricultural use
- Detrimental to ecology
- Council should take enforcement action
- Should deal with breaches of planning control before further site development is considered
- Amenity block is to all intents and purposes a bungalow
- The circumstances of the Sykes family are irrelevant
- The Council has a duty to provide for travellers so we should not allow private developments

9.0 Environment Impact Assessment (EIA)

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

10.0 Main Issues

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

- Principle of development
- Need and existing/alternative provision
- Personal Circumstances
- Unauthorised development
- Location
- Design Matters
- Landscape Impact
- Amenity of neighbours
- Other Matters (Access, Ecology, Drainage)

11.0 ASSESSMENT

Principle of Development

- 11.1 The site is not allocated in the development plan for the use proposed and consequently, the principle of the development of the site for the use is not established by the development plan. Therefore the extent to which the development is acceptable in principle will be established taking account of strategic policies of the development plan and all other material considerations. The policy criteria of SP5 (Site for Gypsies and Travellers and Travelling Showpeople) are specifically relevant, together with the matters listed in national policy (as summarised in paragraphs 7.7 – 7.9 above) .

Need, Provision of Sites and Alternative Sites

- 11.2 The need for sites/ pitches is informed by a specific Gypsy and Traveller Accommodation Assessment (GTAA). Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) of the Development Plan sets out how the accommodation needs of Gypsies and Travellers were to be met at the time the development plan was prepared and on the basis of a need assessment undertaken in 2008. The policy confirms that the majority of the shortfall in pitch requirements

identified at the time would be met through an extension to the Council's existing authorised site - Tara Park at Malton. The policy commits to the provision of a further site which was to have been identified at the time the site specific part of the Development Plan – the Sites Document was prepared, to be supported by further up to date needs evidence. It should be noted that at the time the Sites Document was prepared, a significant number of vacant pitches were available at Tara Park. Against that context, an additional site was not required, based on an updated needs assessment and this was confirmed as part of the examination into the Sites Document in 2019. The policy criteria in SP5 to guide the identification/ allocation of further sites are considered to be consistent with national policy and in this respect, it is considered that the policy remains up to date.

- 11.3 The latest Gypsy and Traveller Accommodation Assessment (GTAA) for the Ryedale Plan area was undertaken in November 2022 by Opinion Research Services, to inform the review of the development plan. The work, based on primary research, identifies the pitch needs for Gypsies and Travellers for the period 2022-2038, to meet the 15 year requirement in the national Planning Policy for Traveller Sites (PPTS). The outcomes supersede previous/ historic assessments and as an up to date assessment of need, the GTAA is a significant material consideration in the determination of the application. (The assessment was undertaken at a time when the national definition of a Gypsy and Traveller excluded travellers who had ceased to travel permanently. However, it assessed those that did meet the then definition and those that didn't. For this reason the assessment therefore includes an up to date of the assessment of the needs of those who meet the current national definition.)
- 11.4 The assessment reveals a current / short term need for 16 pitches arising from existing households with a longer term future need for a further 13 pitches resulting from new / demographic household formation. Taking account of supply at the time the work was undertaken (11 available pitches at the Tara Park public site and the vacation of two further pitches at Tara Park as a result of households moving into bricks and mortar accommodation), the net pitch need (or shortfall) for the period to 2038 is 16 pitches.
- 11.5 Housing Officers have confirmed that the supply identified in 2022 has reduced and at the current time (January 2023), there are 7 available pitches at Tara Park. They have confirmed that the four plots have been taken by households that would not have been present in the area at the time of the assessment survey and as such, the take up of these pitches has not reduced the identified number of households in need of a pitch. On this basis the net pitch needed to 2038 will be 22 pitches (assuming no further change in the households interviewed as part of the assessment).
- 11.6 It is clear therefore that within the area covered by the extant development plan, that there are insufficient pitches for Gypsies and Travellers to meet identified need for the period 2022-2038 and that additional pitches/ site provision is required in this area of North Yorkshire which will need to be addressed through the allocation of further sites in the new North Yorkshire Plan or through the determination of planning applications. Against this context, the need for additional provision is considered to weigh in favour of the proposal in principle. This is tempered by the fact that the GTAA identifies a need for 3 pitches within the period 2022 -2026 (noting that this has moved a further year from this base date). Against this, the availability of deliverable pitches at Tara Park, indicated a sufficient deliverable supply to numerically meet this five year requirement.
- 11.7 The GTAA notes that the majority of current need arises from households living on privately owned sites with and without planning permission and that *'as such, in practice the vacant pitches on the public site may not be suitable to meet their current accommodation need'*. The assessment makes it clear that public and private gypsy

sites are the equivalent of private ownership and renting for those households who live in bricks and mortar housing. It notes that *'in practice, it is unlikely that these pitches will meet the need arising from households living on private sites'* and that *'the Council should carefully consider how to meet this need'*.

- 11.8 Whilst the availability of pitches at Tara Park does, in principle weigh against the proposal, it is considered that the weight to be applied to the need in this case, is influenced by the extent to which the current deliverable supply (Tara Park) is suitable and available to the applicant and his family.
- 11.9 The family keep livestock (poultry) and would not be currently eligible to live at Tara Park for that reason. In addition, some members of the family have previously lived at Tara Park and have not found the experience of living at the site suitable and acceptable to them or conducive to their well-being. The supporting information notes that the family have found it intolerable to live at Tara Park and have experienced anti-social behaviour. Whilst it could be argued that the applicant has the option not to keep livestock, Tara Park is unlikely to be a realistic alternative for the family.
- 11.10 The proposal site addresses the needs of the family group. Whilst the GTAA (for data protection reasons) does not identify the specific details of households in need of accommodation, the 4 pitch requirement of this family was included in the assessment. The families' situation is illustrated by the point made by the authors of the GTAA, that public pitch provision may not be suitable to meet all of the identified accommodation needs and that there is a qualitative need for different forms of provision.
- 11.11 Officers are of the view that if planning permission was granted for the site, it would ensure that a proportion of identified need is met. As it stands, this will reduce the need to identify further sites in this area in the future as part of the new Development Plan. It would also ensure that pitches on the public site are available and best used by those households whose only option financially are public pitches for rent.
- 11.12 It is considered that taking all of the factors relating to need (and limited alternative provision/ choices) into account that the need for the additional private additional pitch provision to address the families need weighs in favour of the proposal. This would be consistent with national policy PPTS which does aim to promote more private site provision as a way of meeting identified need.
- 11.13 The applicants have noted that an on-site presence will help them establish and manage a dog breeding business at the site. It is understood that they currently do not run a commercial dog breeding operation although when the site was purchased planning permission existed for such a use in the former agricultural building at the site. This permission is considered to have lapsed and the building and its proposed use are the subject of the next item on this agenda. Notwithstanding this, it is not considered that an on-site presence is necessary to manage a dog breeding business at the site. Whilst it may be convenient, it is not a factor which in itself, is sufficient to justify the need for the site to be used for Gypsy and Traveller pitch provision.

Gypsy and Traveller status

- 11.14 The provisions of national policy to meet the needs of Gypsies and Travellers are relevant to households which meet the definition of a Gypsy and Traveller in the PPTS. The definition is outlined in paragraph 7.11 above and the PPTS makes it clear that the following matters are relevant in determining whether persons are gypsies and travellers for the purposes of the national, planning definition:
- Whether they have previously led a nomadic way of life

- The reasons for ceasing their nomadic habit of life
 - Whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances
- 11.15 The recent GTAA notes that the meaning of a nomadic way of life has been tested/ established through caselaw and planning precedent which has established (amongst other things) that : nomadism must have an economic purpose – travel for the purposes of making or seeking a livelihood; that a nomadic way of life can be seasonal; that status can be retained if a person had not travelled for some considerable time providing that their nomadism was held in abeyance and not abandoned. The courts have also confirmed that a household can continue to lead a nomadic way of life from a permanent base.
- 11.16 The GTAA notes that where some household members travel for work on a regular basis and others stay at home to look after children or other dependents, the household unit would be defined as travelling under the planning definition.
- 11.17 Evidence supporting the application in respect of the applicant's nomadic habit of life is limited. The Design and Access Statement note that prior to living at the site Mr Sykes had been travelling and working away for some time, while Mrs Sykes and family members had been living at Tara Park. It notes that that the family has also spent time living on the road around the (former) Ryedale area and that the male family members travel for work (including general building, landscaping and arboricultural businesses) to support their families. The applicants agent notes that, in my view, the families clearly have led a nomadic habit of life'.
- 11.18 Officers have no reason or evidence to dispute this point. In addition, it is likely possible that some family/ household members have ceased to travel to care for children and elderly family members. On this basis, the travel for work by male members of the household is significant in confirming the family's nomadic habit of life. In this respect, the supporting material provides no detailed information on the location of or duration of travel for work, which is unfortunate. Notwithstanding this, Officers are aware that the Sykes family households were identified as meeting the planning definition when needs were assessed as part of the recent GTAA. Whilst (for data protection reasons) the detailed individual survey responses are not published with the GTAA, it is clear from the results of the assessment and the need identified on unauthorised sites at the time, that the family were considered to meet the definition using the primary research/ questionnaire by those undertaking the assessment.
- 11.19 Notwithstanding the above, it should also be noted that the NPPF makes it clear that the planning system does need to address the needs of groups with specific housing requirements. In this respect, as Romany Gypsies, it is appropriate that their needs can be met through culturally appropriate accommodation, a defining feature of which is living in a caravan/ mobile accommodation.
- 11.20 The application reflects the applicants desire to live as an extended family unit. It is understood that this reflects strong cultural traditions of Romany Gypsies whereby extended family is the unit within which resources are shared, work organised, food prepared and support and care is provided. In view of the fact that it is an aim of the PPTS to facilitate the traditional and nomadic way of life, this is a matter which weighs in favour of the proposal.

Personal Circumstances

- 11.21 The agent has outlined reasons why the family require a settled base at the current time which is included in a short supporting document entitled 'Very Special Circumstances'. The document has not been scanned to the public file as it contains personal data/ details relating to members of the family. A number of members of the family suffer from a series of chronic health related issues. In addition there are nine children on the site with seven attending the local primary school. Six of the children are currently under the age of ten.
- 11.22 The agent for the applicant has made it clear that a refusal of planning permission for the family would force the family to return to a life on the road due to what they consider to be unliveable conditions at Tara Park and that this would have a consequential impact on the educational needs of the children who would have to vacate their existing school places.
- 11.23 It is considered that the health related issues experienced by members of the family, whilst serious, are similar to those experienced by many in society. However, it is entirely understandable that living conditions and uncertainty over housing will impact upon health and well-being and that a secure, stable and comfortable settled base will be in the best interests of those family members which suffer from specific health and or age related conditions. It is understood that the family are registered at a doctors surgery located in the surrounding area and the site is relatively well located to ensure access to local GP support services.
- 11.24 Officers are in no doubt that it is in the best interests of the children to have a settled home base to allow regular school attendance. This is considered to weigh significantly in favour of the application. Given the ages of the children at the site, it is considered that this stability needs to exist for a significant period until they all reach school leaving age. A number of representations have noted that the children were in school when the family lived at Tara Park and as such have already been subject to disruption. It is understood however, that not all of the family, including children at the application site had previously lived at Tara Park.

Intentional Unauthorised Development

- 11.25 The applicant and his family have moved onto the site and have occupied it in the knowledge that planning permission does not exist. The applicants have taken professional planning advice and are aware that they have acted in breach of planning control. In view of the ministerial statement issued on the 31 August 2015, this situation is a material consideration which weighs against the granting of planning permission. However, it is understood that the applicant would not have been eligible to stay at Tara Park on the basis that he keeps animals (poultry which is not permitted at the public site). In addition, Mrs Sykes had left Tara Park after a period of residency because the conditions of the site were not acceptable to her. In the circumstances, therefore are no other choices of alternative sites in the area available to the applicant or his family other than the road side or land within his ownership (the application site). It is considered that there are some circumstances in this case that therefore temper the weight to be applied to the fact that there has been intentional unauthorised development.
- 11.26 A number of objectors have argued that planning permission should not be granted on the basis of unauthorised development and that enforcement action should be taken. In this respect, the planning application was submitted to regularise the use of the site and Members are aware that the Council has a duty to determine all planning applications that it receives.

Location

- 11.27 The site is located approximately 1.2km from the centre of Sheriff Hutton village. Sheriff Hutton is identified as a Service Village in the Development Plan on the basis of the services and facilities present to serve the local community. Service villages, as local service centres are identified as those rural settlements which will accommodate small scale growth to contribute to meeting development requirements.
- 11.28 The proposed development is located in open countryside outside of the village and is proposed to address the needs and personal circumstances of the applicant and his family. Notwithstanding this, it should be noted that facilities at the village, including the school, shop and public transport are safely accessible on foot via the public right of way to the south of the site and accessible by foot, car or bicycle using the Cornborough Road.
- 11.29 Given the proximity to Sheriff Hutton it is considered that the location of the site provides *'reasonable access to local services and community facilities'* as required by Policy SP5 (Sites for Gypsies and Travellers and Travelling Showpeople) of the Ryedale Plan. National Policy (paragraph 24 of the PPTS) makes it clear that the locally specific criteria used to guide the allocation of sites should be used to assess applications that may come forward on unallocated sites. In this respect the location of the site is considered to comply with the requirements of the Development Plan and national policy.
- 11.30 Sheriff Hutton is a relatively large village within this part of North Yorkshire. It is considered that the proposed development/ four pitches (17 inhabitants) would not be of a scale which would dominate the settled community in the village or put undue pressure on local infrastructure or services. Equally, Cornborough is a small, dispersed hamlet and at the scale proposed, the proposed development would not dominate the settled community that comprises the Cornborough area. Policy SP5 of the Ryedale Plan requires that *'the site is appropriate in scale to the nearest settled community'*. In addition, national policy (paragraph 25 of the PPTS) makes it clear that in open countryside locations, LPAs should *'ensure that sites respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure'*. The scale of the proposal is therefore considered to be acceptable against the requirements of Policy SP5 and the relevant requirements of national policy.

Design

- 11.31 The supporting material provides illustrative images of typical static caravans which are intended to be sited on each of the pitches. The information also indicates that these can need to be changed on a regular basis. As a typical static caravan design the accommodation would be functional and utilitarian in appearance. On the basis that the detailed design and appearance of the caravans has not been confirmed and that they will be changed over time, it is considered that (if members are minded to grant permission) a condition to control the external colour and finish of the accommodation is necessary.
- 11.32 The amenity building is single storey in scale and utilitarian in its proposed appearance. Whilst the proposed plans indicate brick as the proposed external walling material, the agent has confirmed that the applicant is flexible in this respect. Officers are of the view that brick, wooden or composite wooden cladding would be an acceptable finish for this building. Therefore, notwithstanding the submitted plans, a condition to agree the external materials for the amenity building is proposed. The amenity building is designed to provide communal kitchen, laundry, dining and dayroom facilities as well as a bathroom and shower room. An emergency bedroom was initially proposed but has been subsequently removed from the proposed plans.

- 11.33 In design terms, the caravans and amenity building are not considered to be of any significant architectural merit. However, they are considered to be proportionate in scale to the site area and the proposed use. The application includes sufficient areas for car/vehicle parking and turning and for sufficient amenity space, including children's play. The size of the site, coupled with the surrounding open land within the applicant's ownership will ensure that in design terms, development will appear to be set within open areas of land the site will not appear overcrowded. The pitches themselves will be contained by perimeter landscaping which will ensure that they are physically and visually contained within the site. To ensure that the designed layout is adhered to a condition restricting the use of the gravelled hardstanding is proposed. In design terms, the proposed boundary landscaping will not appear inappropriate, unduly oppressive or out of place in the locality. On this basis, the proposal is considered to be acceptable against Policy SP16 (Design) and the specific design criteria of Policy SP5 and paragraph 26 of the PPTS.

Landscape Impact

- 11.34 The site is located in undulating countryside between the Howardian Hills and the Vale of York. In terms of the national landscape character profiles, the site just falls within the Vale of York landscape character area, although it is very much a transitional landscape between the higher land of the Howardian Hills to the north and the Vale of York to the south. The sloping nature of the topography, fields defined by hedgerows, dispersed farmsteads and long distance views to the south are key elements of the prevailing landscape character.
- 11.35 The loss of further sections of the field and land use change associated with the development proposed will alter and detract from the character of the landscape. This is in conflict with Policy SP13 (Landscapes) which aims to ensure that proposals should '*contribute to the protection and enhancement of distinctive elements of landscape character.....*'. In this respect, this is a factor which does weigh against the development. However, whilst the further loss of the field and the proposed development will be detrimental to the prevailing landscape character, this is mitigated in part by the fact that development proposed is limited in its scale and extent. It should also be noted that landscaping proposals for the site include existing hedgerow retention and additional (native) hedgerow planting which is typical of field boundaries in the landscape.
- 11.36 Additional (native) hedgerow planting around the perimeter of the site and along the southern boundary of the field to the south will also help to mitigate the visual impact of the proposed development. Due to the height and maturity of the existing boundary hedge and fencing, (with the limited exception of glimpsed views through the site access), the proposed pitches will not be immediately visible from a public vantage point to the north (with the limited exception of glimpsed views through the site access). The existing former Agricultural building is visible from the road which runs to the north of the site.
- 11.37 The site is visible from the Sheriff Hutton Bridge – Stillington road to the south and the existing caravans at the site are just visible with the naked eye from this road. However, the visual impact associated with distanced views is largely mitigated by the distance itself and intervening landscape features and will be mitigated by the site landscaping as this matures over time.
- 11.38 The most immediate views of the proposed pitches will be experienced from the public right of way which runs directly adjacent to the field to the south of the application site. Currently, open and uninterrupted views are achieved towards the application site. It is from this public vantage point that the landscape impact of the development and the change in the character and appearance of the site will be most

apparent and visible. The applicant has planted hedge planting along this boundary and to the southern boundary of the application site. This will help to mitigate the visual impact of the development although the planting does appear to require some management and species have not been confirmed. It will be important that appropriate landscape planting is in place and managed over time to ensure it grows to maturity and is managed appropriately. Therefore if members are minded to approve the application, a condition is recommended to ensure that (notwithstanding existing planting) a landscaping scheme is agreed for the application site and wider land within the applicant's ownership which secures details of the species, numbers and sizes of hedge and tree planting at the site. A condition is also required to secure the protection of retained hedgerows during construction. The Tree and Landscape Officer has confirmed that subject to such conditions, he has no objections to the application.

- 11.39 Concerns have been raised that landscaping along the boundary of land within the applicant's ownership and the Public Right Of Way may result in the PROW becoming impassable. Members are reminded that it is an offence to block a public right of way and that any obstruction can be dealt with under separate legislation.
- 11.40 In addition to mitigate the potential for light pollution and the impact of the proposal on nocturnal landscape character, a condition is proposed to ensure that details of all external lighting are agreed. These conditions will ensure that the impact of the development on the character and appearance of the landscape can be mitigated in accordance with Policies SP13 and SP20.

Highways

- 11.41 The application proposes the use of an existing site access. The Local Highway Authority has confirmed that the proposed development will not have a detrimental impact on the local highway network and that it has no objection. A condition is recommended to ensure access, parking and turning are provided in accordance with the submitted details.

Amenity of Neighbours/ Impact on Neighbouring Land Use

- 11.42 There are three residential properties in the vicinity of the site. The nearest part of the application site is circa 50m from Mount Pleasant Farm to the north and north of the Cornborough Road. Millers Barn and Mill Hill Farm are located circa 250/ 260 m to the west. At least one occupier of a neighbouring property has objected to the application.
- 11.43 The proposal will result in increased activity associated with the site. However, it is considered that at the proposed scale and taking into account intervening distance, the residential use of the site would not result in a level of activity, noise or disturbance which would result in an unacceptable impact of the amenity of neighbouring residents. The development will be visible from surrounding properties (particularly those to the west) but would not have an overbearing impact on the occupiers of surrounding properties. In this respect, the proposal is considered to comply with Policy SP20 of the Local Plan Strategy.

Ecology

- 11.44 The Ecologist has confirmed that the site is predominantly agricultural grassland of negligible ecological value and without features that are likely to support protected species. The ecologist has noted that the application does not specifically include a Biodiversity Net Gain Plan based on the current version of the biodiversity metric. However, the ecologist notes that the application dates from a time when in principle

biodiversity improvements were acceptable as BNG and has welcomed the inclusion of native species hedging will represent a gain in terms of hedgerow units and has suggested that further details (such as planting mix) could be secured by a condition. Some additional landscaping using native trees and shrubs would increase BNG and this will be secured through a landscaping plan condition.

Drainage

- 11.45 A bio-disc treatment plant has been installed at the site and is a retrospective element of the application. There is no visual impact associated with the plant. As a private means of sewerage disposal, the installation and operation of the plant is covered by separate legislation (legally binding rules and permitting) regulated by the Environment Agency and through Building Regulations. Notwithstanding this, it is unclear as to whether the plant has been installed in a way which meets the binding rules. For that reason conditions are recommended to ensure that full details of foul drainage are submitted and approved and that prior to the amenity building being brought into use, the plant is installed to the satisfaction of an approved Building Control Inspector.
- 11.46 The site is located in Flood Zone 1 and is not at risk of flooding. The LLFA originally requested further information in relation to surface water drainage but subsequently confirmed that the scale of the development did not fall within its statutory function. Surface water runoff from impermeable surfaces will be managed by means of a soakaway. Impermeable surfaces include the proposed amenity building and the hardstanding for the pitches. The land is gently sloping and the applicant owns a significant area of paddock below the application site. It is considered that the ample land in which to provide sustainable drainage. A percolation test has been provided which demonstrates that infiltration rates satisfy building regulation requirements and that an infiltration method of drainage will be viable for the site. Whilst caravans are exempt from Building Regulations, the proposed amenity building is not and a soakaway to cater for run off from this building will require Building Regulations approval.

Other Issues

- 11.47 Members are reminded that impact / perceived impact on property value is not a material consideration in the determination of the application.
- 11.48 Comments have been made that the proposed development would affect views of the Sheriff Hutton Castle ruins. Whilst the Castle is Grade II* listed, the proposed development is not within the immediate setting of the heritage asset. In the wider landscape setting, there may be some distanced inter visibility but given the distances involved and other development in the landscape, the proposed development would not result in harm to the significance of the Castle and is acceptable within the context of Policy SP12 of the Local Plan Strategy.
- 11.49 The site is not located within the York Green Belt and as such, national policy relating to Gypsy and Travellers sites within the Green Belt is not relevant to the determination of this application.
- 11.50. The site is not currently in agricultural production. Notwithstanding this, the proposed development would represent a loss of a limited amount of land with potential for agricultural production. Whilst the precise agricultural land grade is not known, it is considered that given the limited area of the site proposed for development, the factors which weigh in favour of the proposal outweigh the loss of a limited area of agricultural land.

12.0 PLANNING BALANCE AND CONCLUSION

- 12.1 The site is located in open countryside and is a location where new traveller site development should be strictly limited. The proposal will have a harmful impact on the character and appearance of the landscape although this will be mitigated in part by proposed landscaping. These factors do weigh against the proposal.
- 12.2 Notwithstanding its location in the open countryside, the location of the site is considered to provide reasonable access to local services and facilities and the proposed design is considered to meet design and layout requirements which ensure acceptable pitch standards, sufficient car parking and amenity space. The proposal is not disproportionate in scale to the size of the nearest settled community and it is considered that the proposed use in this location will not result in unacceptable harm to the residential amenity of neighbouring residents or have an adverse impact on surrounding neighbouring land uses.
- 12.3 The development would make a contribution to identified pitch requirements covering the next 15 years, to which some weight in favour of the scheme is applied in the planning balance. Limited alternative provision currently exists at Tara Park although this is not considered to be a realistic option for the applicant and the wider family group whose only other option would be the roadside or culturally inappropriate housing. The personal circumstances of the applicant and his weigh in favour of the proposal. In particular, significant weight is applied to the best interests of the children at the site. In the planning balance, these matters are considered to significantly outweigh the harm to the character and appearance of the landscape and the location of the site in the open countryside.
- 12.4 If members are minded to approve the development, it is considered that (on the basis that the personal circumstances of the applicant and his family have weighed significantly in the consideration of the application) a personal condition restricting occupancy of the site to the applicant and immediate family members should be applied. A further condition to restore the site once it is no longer occupied by eligible family members is also recommended.
- 12.5 The approach is consistent with the aim of national policy which is to promote more private site traveller provision. It is also consistent with the findings of the recent (2022) Gypsy and Traveller Assessment for this part of North Yorkshire which recognises the need for additional private site provision.

13.0 RECOMMENDATION

13.1 That planning permission be GRANTED subject to conditions listed below.

- 1 The Gypsy and Traveller site, including pitches, amenity building and associated parking 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.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Amenity Block Floor Plans and Elevations 71239:1002 Rev A (Date scanned 18/1/24)

Proposed Block Plan 71239:1001 B (Date scanned 3/5/23)

Revised Location Plan (Date Scanned 3/5/23)

And substantially in accordance with: Typical Static Caravan. Floor Plans and Elevation 71239:1003 (Date scanned 23/2/22)

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

- 3 The resident occupation of the land hereby permitted shall be carried on by: Oathie Sykes; Irene Sykes; Darkus Sykes; Jasmine Price; Jessie Sykes (Snr); Beth Ann Sykes (Snr); Albert Sykes (Snr) and Debbie Ann Sykes and their resident dependants and for no other persons.

Reason: To ensure that the site is occupied to address identified need and the personal circumstances of the applicant and his family and in accordance with Policy SP5 of the Local Plan Strategy.

- 4 When the land ceases to be occupied by those named in condition (3) the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land and works undertaken to it in connection with residential occupation of the land shall be removed and the land shall be restored to its condition before the development took place in accordance with a site restoration scheme which shall be submitted for approval within 3 months of the date of this decision.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 5 No more than eight caravans (as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed on the site at any time. No more than two caravans shall be stationed on any pitch at any time and no more than one caravan per pitch shall be a static caravan or mobile home. All caravan at the site should be stationed on the pitches hereby approved.

Reason: For the avoidance of doubt and to protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 6 No commercial activities shall take place on the site, including the storage of materials.

Reason: To protect the character and appearance of the locality and residential amenity in accordance with Policies SP13 and SP20 of the Local Plan Strategy

- 7 Only personal commercial vehicles used by occupants of the site to travel to and from work shall be stationed, parked or stored on the site and no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting that Order with or without modification) no fences, gates or walls shall be erected on the land other than as approved.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy

- 9 Full details of all external lighting at the site shall be submitted to and approved in writing by the Local Planning Authority prior to installation. 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: To protect the character of the area in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

- 10 Prior to the siting of any caravan on the pitches hereby approved, details of the external colour shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the visual amenity of the area in accordance with Policy SP20 of the Local Plan Strategy.

- 11 Prior to the occupation of the development hereby approved a scheme to secure ecological improvements and Biodiversity Net Gain within the site or adjacent land under the applicant's ownership, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented within a three month period.

Reason: to secure ecological enhancements in accordance with Policy SP14 of the Local Plan Strategy.

- 12 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 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 appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with SP20 of the Local Plan Strategy.

- 13 Prior to the occupation of the development hereby approved, plans showing details of a landscaping and planting scheme to cover the application site and land identified within the blue line on the submitted application plan, shall be submitted to and approved in writing by the Local Planning Authority. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees, shrubs and planting, together with protective measures for existing hedgerows. 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.

Reason: To enhance the appearance of the development hereby approved Policy in accordance with Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy

- 14 Notwithstanding the plans hereby approved, prior to the commencement of above ground works associated with the amenity building hereby approved, full details of the foul water drainage system to be utilised on site, shall be submitted

to the Local Planning Authority for prior written approval. Any variation from the agreed foul water drainage system shall require the prior written approval of the Local Planning Authority.

Reason: In the interests of appropriate drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

Informative: The submission shall demonstrate if the drainage approach follows the Environment Agency General Binding Rules (which indicates that a flow from a Package Treatment Plant cannot meet the general binding rules if it discharges to a ditch that does not contain flowing water throughout the year.) If compliance with the general binding rules is not feasible, an Environment Agency Permit is likely to be required. <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

15 Notwithstanding the plans hereby approved, prior to the amenity building being brought into use, the agreed foul water drainage system shall be installed and operational, to the satisfaction of an approved Building Control Inspector. Any variation from the agreed foul water drainage system shall require the prior written approval of the Local Planning Authority.

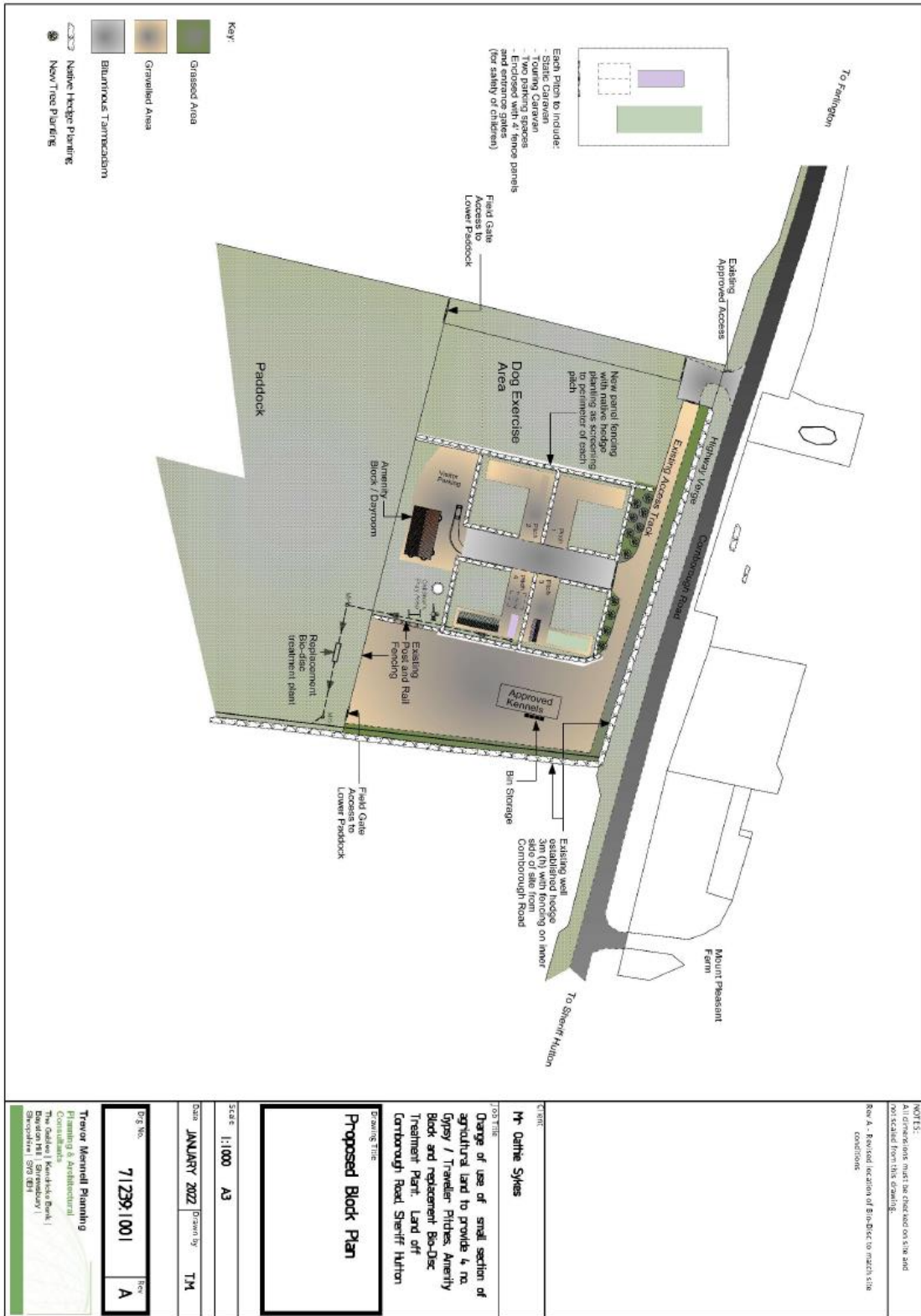
Reason: In the interests of appropriate drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

Informative: The applicant is required to apply to the Council's Housing department for a caravan site licence.

Target Determination Date: 13.04.2022

Case Officer: jillthompson1@northyorks.gov.uk

Appendix 1 – Proposed site layout plan



date valid 30/08/2022

REVISED PLAN

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North Yorkshire Council

Community Development Services

Thirsk and Malton Area Constituency Committee

21 MARCH 2024

ZE23/00437/FUL -CHANGE OF USE OF FORMER AGRICULTURAL BUILDING FOR USE AS A (SMALL BREEDS) DOG BREEDING KENNEL AND DOMESTIC STORAGE TOGETHER WITH AN EXTENSION TO THE BUILDING TO PROVIDE TOILETS AND EXTERNAL ALTERATIONS INCLUDING THE INSTALLATION OF INSULATED ACOUSTIC SHEETING TO THE EXTERIOR OF THE BUILDING (PART RETROSPECTIVE) AND THE CHANGE OF USE OF AGRICULTURAL LAND TO DOG EXERCISE AREA AT LAND AT CORNBOROUGH ROAD, SHERIFF HUTTON.

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

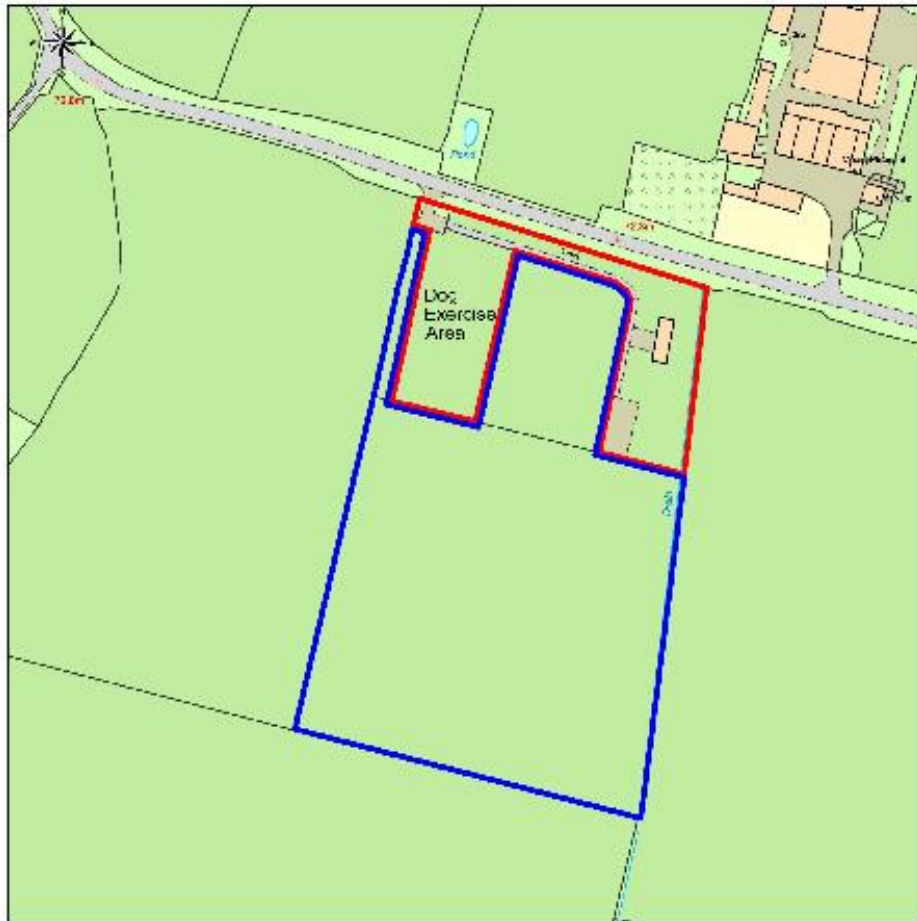
- 1.1 To determine a planning application for the above on land at Cornborough Road, Sheriff Hutton.
- 1.2 The application accompanies another application (planning application ref 22/00102/FUL) in the same location which raises a range of planning issues. It is considered that both applications should be considered by the Committee in view of the cumulative issues raised.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: Subject to planning application ref 22/00102/FUL being approved, planning permission be granted, subject to the conditions listed below.

- 2.1 The proposal is for a mixed use of an existing building, to operate in conjunction with the proposed use of the wider site for Gypsy and Traveller pitch provision. In principle, the acceptability of the proposed mixed use, which includes domestic storage, is contingent on application 22/00102/FUL, (the preceding item on this agenda being approved). In the event that the use of the wider site as a Gypsy and Traveller site is found to be acceptable, the proposed domestic storage use of part of the building would help to ensure that domestic paraphernalia is securely stored out of sight. Planning permission has been granted historically for the use of the building as a dog breeding kennels and associated land as a dog exercise area. As such, the planning history has established that this is, in principle, a suitable use for the building and that conditions can be imposed to mitigate the potential impacts resulting from this use.

Location Plan - Land at Cornborough Road, Sheriff Hutton



This Plan includes the following Licensed Data: OS MasterMap Colour POT
 Location data by the Ordnance Survey National Geographic Database and
 is supplied as a digital vector file available to the public at present on
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 Ordnance Survey. This representation of a road, track or path is an indication of
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 a property boundary. © Crown copyright and database rights 2022. Ordnance
 Survey 010001673

0m 20m 50m 75m 100m 125m 150m 175m 200m

Scale: 1:2500, paper size: A4

Sykes - 71239

Location Plan



emapsite™
plans

Prepared by Trevor Vennell, 12-01-2022

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 application was originally submitted as a retrospective application to regularise changes to appearance of the existing building following planning enforcement investigations and, to seek permission for an extension to the building to provide toilet facilities. To address uncertainty over whether a permission for the use of the building as a dog kennel had been implemented historically, the description of the development proposed has been amended. The application area has also been amended to include an area of land for use as a dog exercise area. These are material changes to the application as originally submitted and as such the changes to the application have been subject to consultation.

3.3 Relevant planning history:

13/00863/FUL: Erection of an agricultural building for the storage of produce and housing of livestock. (Approved)

13/01461/FUL: Siting of two bedroom timber cabin for use as a temporary rural workers dwelling to include formation of access track and hardstanding, and provision of a domestic curtilage (retrospective application). (Refused and s.78 appeal dismissed).

15/00601/FUL: Retention of timber cabin for use as an office, staff facilities, storage area and incubator area. (LPA declined to determine).

19/00603/FUL: Change of use of agricultural land and building for commercial dog breeding and kennels with alterations to include formation of up to 10no.kennels within the existing building. (Approved).

22/00102/FUL: Change of use of land to a gypsy/traveller site with 4no family pitches each with 1no static caravan, 1no touring caravan pitch and parking spaces, erection 1no. amenity building and installation of 1no bio-disc treatment plant with associated parking and landscaping. (Pending consideration at the time this report is drafted. The application is prior to this item on the agenda).

4.0 Site and Surroundings

4.1 The site is located in open countryside approximately 700m to the west of Sheriff Hutton.

4.2 The site covers approximately 0.6 ha. It comprises the building set in an area of gravelled 'hardstanding', a gravel access track and an area of grassland/ field to the west. A family of travellers currently occupy the site and there are currently 7 caravans present within the application area together with some children's play equipment and two small outdoor single dog kennels.

4.3 The building is an existing steel portal frame which is set on a concrete base and low brick faced, block masonry wall. Externally the walls are comprised of green acoustic sheet cladding and the roof is metal sheeting. A large metal roller shutter door and single entrance door are located in the western elevation. The building is approximately 18.4m in length and 6.2m in width. From the lowest ground level it

measures approximately 6.6m to ridge height. The land on which the building is situated gently falls away in a north to south direction resulting in a change of level over the length of the building of approximately 1m north to south. At the northern end of the building the eaves height is 4.1 m above ground level and the ridge height 5.4 m above ground level.

- 4.4 The building is sited in the same position as a building which was granted planning permission for agricultural use in 2013. In 2020, permission was granted for the use of the building, together with alterations, for commercial dog breeding and kennels.

5.0 Description of Proposal

- 5.1 The application seeks permission for the use of the existing building as a dog breeding kennels, together with some domestic storage space which is proposed to be incidental to the proposed use of the wider site for Gypsy and Traveller accommodation (to which application reference 22/00102/FUL) relates.
- 5.2 The proposed internal layout of the building includes 6 kennels and approximately 27 square metres of storage floor space. The application also proposes a small extension to the southern gable of the building to provide site toilet facilities. The proposed extension measures 4m in length, 3.8 m in depth and 3m in height (to the ridge).
- 5.3 The application includes a large area for the exercising of dogs, which forms part of an existing field to the west of the building and to the south of the site access. The access road and land around the building are surfaced with gravel which, together with external changes to the appearance of the building, are retrospective elements of the application.
- 5.4 The supporting Design and Access Statement confirms that it is the applicant's intention to breed small pedigree dog breeds, recognised by the kennel club and suitable for rehoming. A maximum of six adult dogs are proposed to be present on site at any one time. It is understood that it is the applicant's intention that this would, be operated as a commercial operation (as opposed to occasional breeding associated with domestic activity.)
- 5.5 The application was originally made to regularise external changes to the building and the provision of the gravel hardstanding, together with the proposed toilet extension. The description of the development proposed was expanded to cover the change of use of the building to a dog breeding kennels when it became apparent that the earlier permission for that use had not been implemented and had lapsed by a limited number of months. The revised description also included the use of part of the building for domestic storage. The intention is that this use would be incidental to the use of the wider site if application (ref: 22/00102/FUL) is approved.

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)

Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2023
- National Planning Practice Guidance

7.0 Consultation Responses

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

Parish Council

7.2. Object

- Not a retrospective application. The previous kennel permission has expired and it does not adhere to that permission. The site is not used for dog breeding. Dogs are kept in kennels outside
- Application states no parking but a large number of vehicles could be parked
- Uncertainty over how surface water is drained. The stoned area is increasing run off to the fields below
- When the kennels were given permission it was on the proviso that there should be no residential use
- No details given for times of use including use of the dog walking area
- No details of how the dogs will be contained
- The site is clearly visible from the public footpath
- Roller door has no soundproofing and cannot be sound proofed
- Concern about lack of light and the conditions in which dogs will be kept
- Question why four toilets are needed
- The site should not have a domestic use
- Thousands of dogs are in need of rehoming since the first application. There is no requirement to breed more dogs
- Constant noise issues with dogs barking at the site. NYC has been made aware and no action has been taken
- Is an effort to legitimise the illegal use of the site for domestic storage

Environmental Health

7.3. Recommend conditions (Noise and Lighting) and an informative (Animal licencing)

Highways

7.4 Recommend a condition (to secure turning and manoeuvring).

Local Representations

7.5 Letters of objection have been received by eight individuals following consultation and re-consultation on changes to the site area and an amended description. A summary of the comments is provided below, however, please see the website for full comments.

- No details of security fencing
- Position of use adjacent to a public right of way is inappropriate

- In Nov 2023 there were 12 caravans at the site without permission
- The Council should take steps to address the residential use of the site
- Is a change of use from agriculture to a business that is not in keeping with the locality
- Progressive gradualism for the creation of a mini industrial estate
- RDC and NYC have failed to look into and take notice of noise complaints regarding the site
- Currently dogs bark for hours on end and noise associated with the unauthorised domestic use of the site is causing daily problems
- We cannot use our outdoor space because of noise and plans to diversify our business have been put on hold
- There should be no domestic use of the site
- The noise assessment is invalid
- I welcomed the idea of a pet breeding business at the site but the current owners have no intention of developing it for business purposes
- Object to the installation of flood lights and impact in terms of light pollution, neighbours and the character of the countryside
- Permission for a change of use has not been granted
- Should be viewed as a retrospective application
- Demonstrates a disregard for proper procedure
- The D&A details a requirement for the family to live on site to manage the business. The original permission was conditional on no-one living on site.
- Severe landscape impact and impact on Castle ruins
- Pressure on local infrastructure and services
- The already unauthorised development at the site has had an impact on the local environment

8.0 Environment Impact Assessment (EIA)

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

9.0 Main Issues

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

- Principle of development
- Design and Landscape impact
- Impact on local amenity
- Highway Impact
- Drainage
- Other matters

10.0 ASSESSMENT

Principle of Development

- 10.2 The application proposes a mixed use of the building which includes domestic storage and dog breeding.

- 10.3 A building at the site and in this open countryside location was originally justified for agricultural purposes. Planning permission was granted in 2020 to change the use of the building to a non- agricultural use as a dog breeding kennels. Policy SP6 (Delivery and distribution of employment land and premises) supports the use of land and conversion of buildings in the open countryside for appropriate rural economic activity in line with the provisions of Policy SP9 (The land-based and rural economy). Although dog breeding is not exclusively a rural activity, the use of the building and an area of land for the exercising of dogs associated with dog breeding, is considered to be an appropriate use within the rural area and is land-based as proposed. In principle therefore, it is considered that the use of the building and part of the site for dog breeding is acceptable in principle against the provisions of policies SP1, SP6 and SP9. It is considered that the earlier permission for a dog breeding establishment at the site, has established that in principle, the use is acceptable in this open countryside location.
- 10.4 It is considered that the proposed use for domestic storage would not be acceptable in principle at the site on its own or as a mixed use with the dog breeding. In this respect, a personal domestic storage use would only be considered to be acceptable in principle, if permission existed for the wider residential use of the site. Therefore, it is considered that as it stands the use of the building for domestic storage (incidental to the proposed use of the wider site for four pitches of traveller accommodation) is contingent in principle, on the decision which is made in respect of planning application: ref 22/00102/FUL.

Design and Landscape Impact

- 10.5 Policy SP16 (Design) requires that development should respect the context provided by its surroundings, including in terms of siting, scale and detailed design. Ensuring that development respects the character of the locality and wider landscape is also reiterated in Policy SP20 (Generic Development Management Issues). Policy SP20 also requires that extensions or alterations to existing buildings will be appropriate and sympathetic to the character and appearance of the existing building in terms of scale, form and use of materials.
- 10.6 The building is a modern steel framed building. It is utilitarian in its appearance, mass and scale. The applicant has applied green metal sheeting to all exterior walls and these external changes are a retrospective element of the application. The building is readily visible from the public right of way, approximately 130 m to the south of the building and from properties to the west. It is partially visible above established boundary hedging, from the farm to the north of the site and from the road as the site is approached.
- 10.7 The scale and form of the building reflect those of the agricultural building permitted in 2013. In terms of its scale, form and appearance the building is considered to be consistent with the other buildings and in this respect, its presence and appearance is not out of character with the surrounding agricultural/rural landscape. The proposed lean to extension to provide toilet facilities is subservient in scale and form to the existing building and the external materials are proposed to match those of the existing building and are considered to be acceptable in design terms.

Impact on Local Amenity

- 10.8 The proposed dog kennel use has the potential to impact on the residential amenity of neighbouring occupiers. The closest residential receptor is the farmhouse at Mount Pleasant Farm which is approximately 60m to the north of the application building. Mill Hill Farm and Millers Barn are over 300 m to the west.

- 10.9 The proposed use will involve visitors/ customers to view, select and collect puppies. The applicant does not currently breed dogs on a commercial scale and the supporting information does not indicate how breeding cycles will be undertaken. However, the scale of the operation would be for a maximum of six litters of puppies at any one time. It is considered that this would not result in a level of vehicular activity to and from the site that would be noticeably different to the levels of traffic along Cornborough Road, to which local residents are currently exposed. In this respect, activity associated with visiting customers would not result in unacceptable harm to the residential amenity of the occupiers of neighbouring properties.
- 10.10 The proposed use has the potential to generate noise as a result of barking dogs and noise impact has been raised in objections to the proposal from the Parish Council and from local residents.
- 10.11 The current application is not supported by a noise assessment. However, this issue was fully considered when permission was granted for the use of the dog breeding in 2019 and a noise assessment did inform the consideration of the previous application. It provided an indication of background noise levels and established that with the inclusion of a number of improvements (to the building at that time) including, overcladding, insulation, opening sizes and positions and mechanical ventilation, the use would not result in increased ambient noise. It also concluded that exercising dogs are unlikely to be a source of noise.
- 10.12 Therefore, although the current application is not supported by a noise assessment, officers, including the Council's Environmental Health Officers, are mindful of the noise assessment undertaken for the earlier scheme and the recommended mitigation measures and conclusions deemed to be necessary to achieve satisfactory noise levels. Officers are of the view that there have been no significant land use changes in the immediate vicinity of the site which would significantly change ambient background noise levels. (It is noted that objectors have raised concerns over noise associated with the unauthorised use of the wider site and barking dogs. The Council's Community Team and Environmental Health team have confirmed that they have not received any formal complaints specifically relating to noise from the site.)
- 10.13 As it currently stands, the exterior walls of the building have been clad in an insulated cladding and it is understood that insulated sheeting has been installed as part of the roof structure. The supporting material indicates that it is the applicant's intention to install a mechanical ventilation system which will be used to ensure appropriate temperatures and air flow without the need for doors to remain open, although precise details have not been provided. A large roller shutter door has been installed in the western elevation of the building, adjacent to a single pedestrian entrance door. The acoustic properties of both of these doors is not known but clearly when open, these doors will allow noise from the interior of the building to escape.
- 10.14 The Council's Environmental Health Officers have considered the proposal and the building as it is currently built and have made the following comments and recommendations:

'The noise assessment submitted to support the previous approval 19/00603/FUL concluded that if the recommended acoustic improvements (set out in drawing refs 478-03, 478-04 & 478-05 dated April 2019) were implemented then the additional noise produced by the dogs will not result in increased ambient noise levels.

There is no information submitted with the ZE23/00437/FUL application which details whether the acoustic improvements that have been undertaken are what was detailed in the approval 19/00603/FUL and what the noise report was modelled on. If the acoustic improvements that have been undertaken differ, then the applicant must

demonstrate that the acoustic improvements that have been undertaken adequately meet the level of modelled noise reduction for use as breeding kennels.

Based on this, we would recommend the following conditions:

- *Prior to first use of the building for the keeping of dogs for commercial purposes, the acoustic insulation improvements shall be tested to demonstrate that they achieve the modelled noise reduction specified in Noise report ref. (R001163 v.3) of approval 19/00603/FUL.*

Reason: To ensure that noise from the buildings does not cause a nuisance to nearby residents.

- *All doors to the premises shall be kept closed at all times except for the purpose of entry to or exit from the premises.*

Reason: To ensure that noise from the buildings does not cause a nuisance to nearby residents.

- *Prior to first use of the building for the keeping of dogs for commercial purposes, details of the proposed ventilation system for the building shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before such use and thereafter shall be maintained throughout the lifetime of the development.*

Reason: To ensure that noise from the buildings does not cause a nuisance to nearby residents.

Informative: Please note that the proposed dog breeding activity may require a licence the applicant will need to contact animal licensing who will advise on the requirements of the layout and physical conditions of the kennels. This will impact on the number of kennels the building will be able to accommodate and require conditions to be met for the welfare of the dogs'.

10.15 Following discussion with the Environmental Health Officer, it is considered that a more precise condition should be applied to specify the noise level limit to be achieved. This would be no more than the background level for daytime at 40db and 37db at night time.

10.16 The application proposes the installation of security lighting (LED flood lights with motion sensor and timer) on all exterior corners of the building. Security lighting has the potential to impact upon the amenity of neighbours, as well as the nocturnal character of the site in the landscape. Whilst the proposal is to angle the lights downwards and to fit them 4 m from ground level, four lights on each corner of the building is considered to be excessive, particularly given that the only entrances to the building are on the western elevation. For this reason, and notwithstanding the submitted details, a condition to secure lighting details is proposed.

Highway Impact

10.17 The application does not involve any changes to the existing access from Cornborough Road, which meets the required design specification, including visibility in both directions. The proposed dog breeding use is a relatively small scale operation with limited customer trips associated with viewing, visiting or collection of puppies. The Local Highway Authority has confirmed that it remains of the view the proposals would not create an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. The LHA has noted that due to the changes from application ref 19/00603/FUL and association with the as yet to be approved travellers site, a condition to secure turning and manoeuvring for users of the domestic storage building is recommended.

Drainage and Waste

- 10.18 The site is in Flood Zone 1 and is not at risk of flooding. It is understood that surface water run-off from the existing building drains to a soakaway to the rear of the building. Surface water run-off from the proposed toilet block extension is proposed to drain via a soakaway. Percolation testing has demonstrated that drainage via ground infiltration is viable at the site and that infiltration rates to satisfy Building Regulation requirements can be achieved.
- 10.19 Foul waste water from the proposed extension to house toilets will be directed to a package treatment plant which has been installed at the site. Retrospective permission for this package treatment plant is sought as part of application ref 22/00102/FUL which is not determined at the time of writing this report. Therefore, conditions are proposed to ensure that means and details of foul waste water disposal are agreed prior to the erection of the toilet block extension and that prior to the toilets being brought into use, the plant is installed to the satisfaction of an approved Building Control Inspector. The agent has confirmed that it is no longer the applicant's intention to install a cess pit to deal with waste water from the kennel building. This follows discussion with the Council's Environmental Health Officer who has advised that in the absence of any specific justification, any requirement to dispose of foul waste water from the kennel building should be disposed of via the package treatment plant.
- 10.20 The supporting information indicates that solid waste arising from the kennels will be stored in appropriate bins prior to collection by an appropriate contractor. Notwithstanding this it is considered prudent to impose a condition to require the submission of details for the procedures for kennel cleaning and associated waste disposal.

Other Matters

- 10.21 Representations have raised animal welfare concerns. It should be noted that the applicant will need to comply with licensing requirements under Animal Welfare Regulations and any other statutory provisions. If any of these requirements require further external changes to the building then this would need to be addressed through an amendment to any permission granted.
- 10.22 Some representations have duplicated concerns/ objections in response to this application and application reference 22/00102/FUL. In considering application 22/00102/FUL, Officers have made it clear that the proposed dog breeding use does not in itself generate a requirement for someone to live on-site.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The proposed mixed use of the building is aligned to the applicant's proposal to use the wider site as a Gypsy and Traveller site. In this respect, the extent to which the proposed domestic storage use of the building is acceptable in principle, is dependent on whether planning permission is granted for the residential/ Gypsy and Traveller site use for the wider site. If planning permission is granted for that use, the use of the building for incidental domestic storage would help to ensure that domestic paraphernalia can be securely stored within one existing building. It would also help to reduce visual impact associated with domestic paraphernalia and pressure for additional buildings at the site which would help to ensure compliance with the requirements of Policy SP20.

- 11.2 The proposed dog kennel use does not conflict in principle with Policies SP1, SP6 and SP9 of the development plan and would represent a small business within the rural area. In the absence of objections from the Environmental Health Officer and in view of the planning history of the building, it is considered that it would be unreasonable to refuse the application on the basis of the proposed dog breeding use. It is considered that appropriate measures, secured by condition will ensure that the use can be undertaken without causing unacceptable harm to the residential amenity of the occupiers of dwellings in the locality or the environment. In this respect, the proposed development is considered to be acceptable against the provisions of Policies SP17 and SP20.
- 11.3 The external appearance of the building and the proposed extension is acceptable in design terms and in the context of the local landscape and is considered to accord with Policies SP16 and SP20.
- 11.4 Subject to application ref 22/00102/FUL being approved, it is considered that there are factors which weigh in favour of the development on balance.

12.0 RECOMMENDATION

- 12.1 That, subject to planning application (reference) 22/00102/FUL being approved, planning permission be GRANTED subject to conditions listed below.

Recommended conditions:

1 The uses and extension 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.

2 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Revised site location plan: Scanned 22/1/2024
- Revised Proposed Floor Plan ref: 71328:1002 Rev B
- Elevations Plan ref: 713281001

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

3 No part of the development must be brought into use until the parking, manoeuvring and turning areas for all users 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 for Condition

To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with Policy SP20 of the Local Plan Strategy.

4 Prior to the use of the building for dog breeding, full details of the ventilation system for the building shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the dog

breeding use is commenced and thereafter shall be maintained throughout the lifetime of the development.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

5 Prior to first use of the building for the keeping of dogs for commercial purposes, the acoustic properties of the building shall be tested to demonstrate that the predicted noise levels at the nearest noise sensitive receptors specified in Noise report ref. (R001163 v.3) of approval 19/00603/FUL. The levels achieved shall be no more than the current background (L90) for daytime (40dB) and night-time (37dB).

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

6 All doors to the premises shall be kept closed at all times except for the purpose of entry to or exit from the premises.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

7 There shall be no external alteration to the building or addition of any openings, windows or doors except in accordance with the details shown on the elevation Plan hereby approved.

Reason: To ensure an appropriate appearance and to protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

8 The hours of use of the dog exercise area to the west of the building as shown on the block plan shall be limited to 07:00 and 21:00 hours.

Reason: To protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

9 The building shall only be used solely for kennels for the breeding of small breed dogs (as defined by the Kennel Club) with a maximum of 6 adult dogs at any one time.

Reason: For the avoidance of doubt and to protect the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

10 Notwithstanding the submitted details, full details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The details shall include the position, height, angle of lighting, illuminance level and period of operation. Lighting details shall be designed to be the minimum needed for security, installed to minimise glare and light spillage and shall not illuminate beyond the site boundary. All lighting shall be installed and maintained in accordance with approved details.

Reason: To protect nocturnal landscape character and the residential amenity of the occupiers of neighbouring properties and to satisfy the requirements of Policy SP20 of the Local Plan Strategy

11 Notwithstanding the submitted details, prior to the dog kennel use hereby approved being brought into use, a waste management plan shall be submitted to and approved in writing by the Local Planning Authority. This shall detail the

measures to be taken to minimise environmental issues through the correct collection and storage of animal waste. It shall detail the methods of animal bedding and kennel cleaning. Thereafter, the site shall be operated in accordance with the approved details.

Reason: In order to protect the environment and the amenity of nearby residents and to satisfy policy SP20 of the Local Plan Strategy.

12 The building shall not be let or sold off separately from the property currently known as 'The Kennels', Cornborough Road

Reason: In order to protect the residential amenity of site residents and to satisfy the requirements of Policy SP20 of the Local Plan Strategy.

13 The domestic storage use of the building shall cease when the wider site/property currently known as 'The Kennels', Cornborough Road, ceases to be occupied by those named in condition 03 of planning approval 22/00102/FUL or any other person named in any subsequent approved variation of that condition.

Reason: To protect the character of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy

14 Prior to the toilets being brought into use, the foul water drainage system shall be installed and operational to the satisfaction of an approved Building Control Inspector. Any variation from the agreed foul water drainage system shall require the prior written approval of the Local Planning Authority.

Reason: In the interests of appropriate drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.

15 Full details of any means of enclosure for the dog exercise area shall be submitted to and approved in writing prior to installation and before the land is brought into use. Thereafter, the means of enclosure shall be maintained in accordance with the approved details.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy.

16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting that Order with or without modification) no other fences, gates or walls shall be erected on the land without the prior approval of the Local Planning Authority.

Reason: To protect the character and appearance of the locality in accordance with Policies SP13 and SP20 of the Local Plan Strategy

Informative: Please note that the proposed dog breeding activity may require a licence the applicant will need to contact animal licensing who will advise on the requirements of the layout and physical conditions of the kennels. This will impact on the number of kennels the building will be able to accommodate and require conditions to be met for the welfare of the dogs.

Target Determination Date: 23/06/2023

Case Officer: jillthompson1@northyorks.gov.uk

Appendix A – Proposed Elevation Plan

