

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, 18 April, 2024

Time: 10.00 am

Venue: Ryedale House, Malton, 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, 15 April 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 21 March 2024** (Pages 3 - 10)
- 3. Declarations of interests**
All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.
- 4. ZB23/01870/FUL - Construction of multi-use games area** (Pages 11 -

(MUGA) finished with a porous macadam surface. Including perimeter fence, directional LED sports lighting system, equipment store, landscaped bunds and access pathways at Thirsk Community Primary School , Hambleton Place, Thirsk, North Yorkshire, YO7 1SL on behalf of Andrea Mansfield **20)**

Report of the Assistant Director Planning – Community Development Services

5. **23/00348/MFUL Update report - 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** **(Pages 21 - 56)**

Report of the Assistant Director Planning – Community Development Services

6. **ZE23/06955/73 Update report - 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)** **(Pages 57 - 84)**

7. **Any other items**

Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.

8. **Date of next meeting**

Thursday, 23 May 2024 at 10.00am.

Members are reminded that 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, Senior Democratic Services Officer

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Wednesday, 10 April 2024

North Yorkshire Council

Thirsk and Malton Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 21 March, 2024 commencing at 10.00 am.

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

Officers Present: Jill Thompson, Alpha Love-Koh, Alan Goforth, Matthew Lishman and Nicki Lishman.

Apologies: Councillor Joy Andrews.

Copies of all documents considered are in the Minute Book

73 Apologies for absence

Apologies for absence were received from Councillor Joy Andrews, Councillor Mason substituted.

74 Minutes for the meeting held on 15 February 2024

The minutes of the meeting held on 15 February 2024 were confirmed and signed as a correct record.

Voting record

Confirmed by general affirmation.

75 Declarations of interests

Councillor Caroline Goodrick declared an interest in Item 4 of the agenda as she had been involved with the project and recused herself from consideration of the item. Councillor Goodrick also declared a personal but non pecuniary interest in Item 5 as she knew the listed objector who was the former Chair of the Parish Council and in Items 8 and 9, as the applications were in her division.

In the absence of the Vice Chair, Councillor Goodrick proposed and Councillor Sam Cross seconded that Councillor Nigel Knapton take the Chair for consideration of Item 4.

Upon being put to the vote the motion was carried.

DECISION

That Councillor Nigel Knapton take the Chair for consideration of Item 4 of the agenda.

Voting record

Unanimous

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.

76 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

Councillor Nigel Knapton in the Chair.

The Assistant Director Planning – Community Development sought determination of 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.

The application was 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 was considered to be submitted on behalf of the Council.

Presenting the report, the planning officer drew Members attention to how the proposal supports;

- key policies in the Ryedale Local Plan
- the aspiration of the local community for this type of community space
- the promotion of healthy and safe communities

The officer also explained the measures that have been taken by the applicant to ensure pedestrian safety, car parking, the visual amenity of neighbouring properties, noise and the mitigation of surface water run-off.

Guy Holtby spoke to object to the application.

Sean McDermott, representing the Parish Council, spoke in support of the application.

Councillor Caroline Goodrick, Division Member, spoke in support of the application.

Karen McDermott, the applicant spoke in support of the application.

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

- Access to the site and concerns about ownership of the lane
- The quality and design of structures on the site
- Car parking
- Events at the site

DECISION

That planning permission be GRANTED subject to the conditions listed in the report and that any amendments to the conditions be delegated to officers.

Voting record

Unanimous

Councillor Lindsay Burr left the meeting at 10.50am.

77 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

Councillor Caroline Goodrick in the Chair.

The Assistant Director Planning – Community Development sought determination of 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.

The application was reported to the Area Planning Committee for determination because it was considered that significant planning issues had been raised.

Presenting the report, the planning officer drew Members attention to

- The existing condition restrictions and those proposed
- Event management proposals
- The responses of the Environmental Health Officer, AONB Manager and the Local Highway Authority
- Parking and traffic management matters

John Ryan spoke to object to the application.

Georgia Dowkes-White, the applicant, spoke in support of the application.

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

- Condition 10 regarding no deliveries before 4.00am.
- Parking for this and neighbouring properties
- The introduction of a Traffic Regulation Order
- Noise and disturbance

DECISION

That the granting of planning permission be DEFERRED subject to further consideration of condition 10 regarding deliveries to the premises and further investigation into the proposed Traffic Regulation Order.

Voting record

Unanimous

78 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

The Assistant Director Planning – Community Development sought determination of 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.

The application was reported to the Area Planning Committee for determination because it was considered that significant planning issues had been raised.

Presenting the report, the planning officers drew Members attention to the planned accesses to the site, which were linked to the development of application ref ZE23/05729/MFUL on the adjacent land. Vehicular access between 12 and 14 Aspen Way was proposed until such time as the access via the adjacent application was completed. In addition, access from the B1257 for construction traffic only, was proposed until such time as the construction had been completed.

Tim Waring spoke to object to the application.

Fiona Farnell, on behalf of the Parish Council, spoke to register the Parish Council's concerns regarding access to the site.

Paul Butler, agent, spoke in support of the application.

During consideration of the item, the Committee discussed the following issues in depth:

- Members were concerned that the proposed access between 12 and 14 Aspen Way would become a permanent arrangement, as its removal or downgrading was dependent upon the progression of the neighbouring application site.
- Members considered whether the temporary construction traffic access to and from the B1257 could be an alternative option for residential traffic.

DECISION

That the granting of planning permission be DEFERRED to allow further consideration of the proposed accesses to the site.

Voting record

5 for

1 abstention

79 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

The Assistant Director Planning – Community Development sought determination of 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.

The application was reported to the Area Planning Committee for determination because it was considered that significant planning issues had been raised.

Presenting the report, the planning officer advised Members that the drainage design was not yet fully resolved and the LPA was awaiting the Lead Local Flood Authority's final recommendation. The site is within an area of high flood risk and is subject to a site-specific flood risk assessment, which has been deemed acceptable by the Environment Agency and has passed a sequential test process. The officer confirmed that the final lighting scheme would be approved by condition and an application for advertisement consent would be required in the future.

Paul Brailsford, agent, spoke in support of the application.

During consideration of the item, the Committee considered the following matters:

- The impact of lighting on the highway and any planned landscaping to mitigate this.
- Littering of the local surroundings and beyond and what conditions could be implemented to minimise this risk.
- Any potential impact on the status of Malton as the Food Capital of North Yorkshire.

DECISION

That planning permission be GRANTED and that delegated authority be given to officers to agree conditions on flood mitigation and drainage following the receipt of a consultation response from the Lead Flood Authority and an informative in respect of the management of litter.

Voting record

Unanimous

80 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

The Assistant Director Planning – Community Development sought determination of a planning application for the change of use of land to a traveller site at Cornborough Road, Sheriff Hutton.

The application was referred to committee for determination on the basis of the Planning issues raised by the application.

Presenting the report, the planning officer updated Members on current capacity at the Tara Park Gypsy and Travellers site at Malton, which as of this date had only one vacant pitch. The officer also confirmed the circumstances of the number of family members living at the Sheriff Hutton site. National government policy with regard to the development of travellers

sites in open countryside was explained within the context of this application, in that need and personal circumstances may be considered.

John Hamilton spoke to object to the application.

Trevor Mennell, agent, spoke in support of the application.

Members were given the opportunity to read details of a "Personal circumstances" document and, as this information met the provisions of section 100A of the Local Government Act 1972 as the information related to an individual, Members agreed to move into closed session for consideration of this information.

The public meeting resumed at 1:54pm.

During consideration of the item, the Committee discussed the following matters:

- The need for the amenity building and the use of the existing building on the site.
- The link of the application to the named family members and their dependent children.
- The possibility of the future removal of the structures.
- Any commercial activity of the site.
- The proposed pitches located in the wider, open area of the site.

DECISION

That the granting of planning permission be DEFERRED to allow further discussion on the design and permanence of the amenity building and the extent of the proposed pitches into the wider site to reduce landscape impact.

Voting record

Unanimous

- 81 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.**

The Assistant Director Planning – Community Development sought determination of a planning application for land at Cornborough Road, Sheriff Hutton.

The application accompanied another application (planning application ref 22/00102/FUL) in the same location which raised a range of planning issues. It was considered that both applications should be considered by the Committee in view of the cumulative issues raised.

DECISION

As this application was dependant on the outcome of the previous application, which was deferred by the Committee, it was agreed that this application should also be DEFERRED.

- 82 Any other items**

There was no other business.

83 Date of next meeting

18 April 2024 at 10am.

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**North Yorkshire Council
Community Development Services
Thirsk and Malton Constituency Planning Committee
18 April 2024**

**ZB23/01870/FUL - Construction of multi-use games area (MUGA) finished with a porous macadam surface. Including perimeter fence, directional LED sports lighting system, equipment store, landscaped bunds and access pathways
At Thirsk Community Primary School , Hambleton Place, Thirsk, North
Yorkshire, YO7 1SL**

On behalf of Andrea Mansfield

Report of the Assistant Director Planning – Community Development Services

1.0 PURPOSE OF THE REPORT

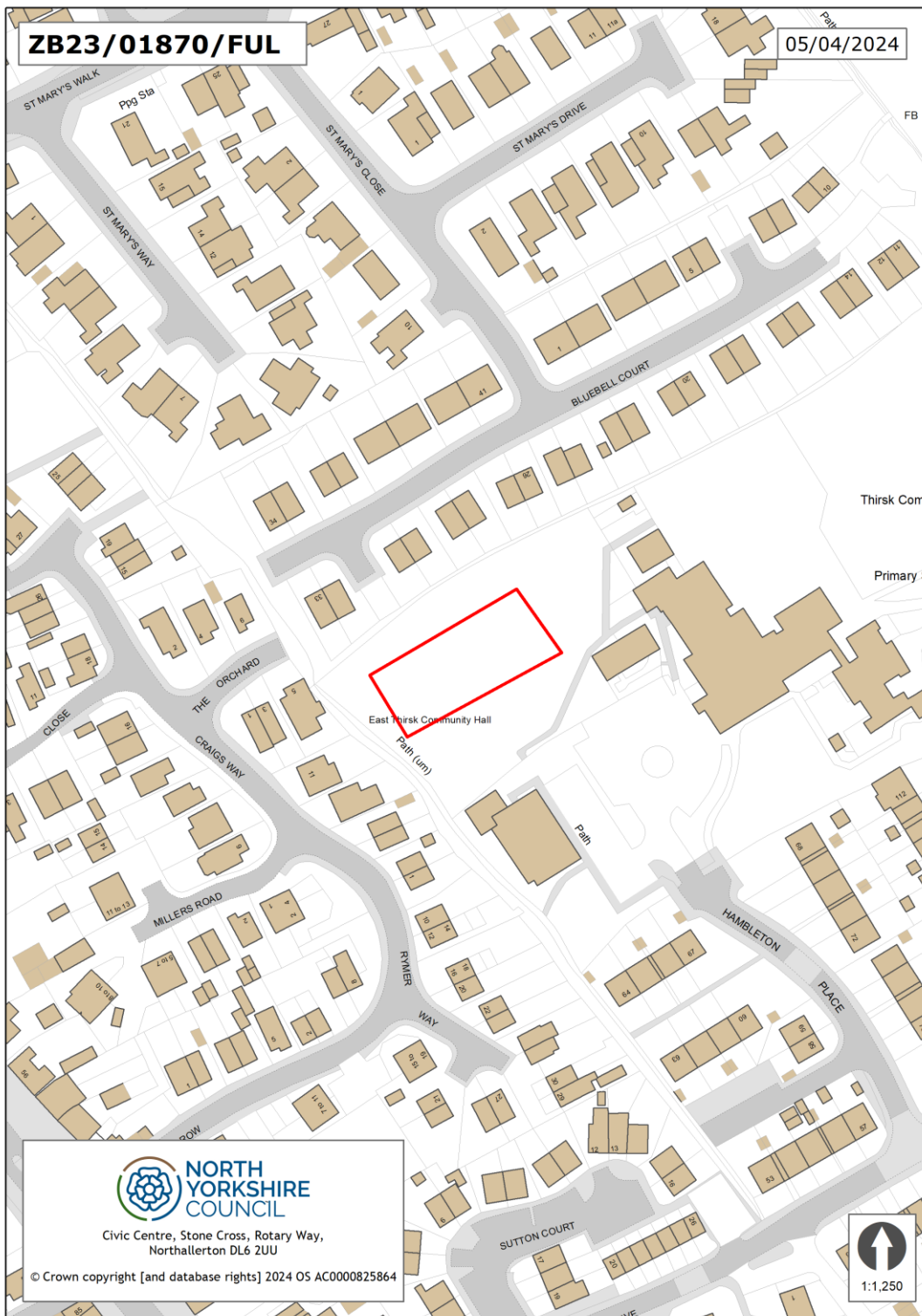
- 1.1 To determine a planning application for the construction of a multi-use games area (MUGA) finished with a porous macadam surface, including perimeter fence, directional LED sports lighting system, equipment store, landscaped bunds and access pathways at Thirsk Community Primary School.
- 1.2 This application is presented to the Planning Committee as it concerns land under the ownership of the Council and the proposed development has received several objections from members of the public.

2.0 SUMMARY

RECOMMENDATION:

- 2.1 That planning permission be GRANTED subject to conditions listed below.
- 2.2 The site in this instance is a parcel of grassland behind Thirsk Community Primary School and East Thirsk Community Hall which are located to east of Thirsk town centre.
- 2.3 Planning permission is sought for the construction of a multi-use games area measuring 36.6m x 20m using a porous macadam surface. It would be bound on the two longer sides by a 3m high panel fence with a 4m high mesh fence with netting above behind either end of the area. A 1.5m high grassed bund would be created from the material stripped from the existing field which would be located directly between the games pitch and adjacent dwellings to the north, alongside a 2.5m high fence which would tightly bound the MUGA to provide an acoustic barrier. The games area would be served by four 8m high floodlight columns. The requested operating times for the area are 08:00-21:00 weekdays and 08:00-20:00 weekends and bank holidays.
- 2.4 The most pertinent issue is the impact of the development on the amenity of nearby residents, both relating to noise and light pollution. A Noise Impact Assessment and Lighting Assessment has been submitted with the application and have been reviewed by the Council's Environmental Health Team who, subject to physical mitigation by way of the

fencing and bunding outlined above, are content there will be no detrimental impact on amenity. On this basis, Officers are content no harm will arise and ultimately the development is therefore acceptable.



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3.0 PRELIMINARY MATTERS

3.1 Access to the case file on Public Access can be found here [Documents for ZB23/01870/FUL](#)

3.2 Throughout the course of the application a Noise Impact Assessment and Lighting Assessment has been submitted following discussions with Environmental Health.

Furthermore, an amendment has been made to the scheme to include a timber fence as mitigation for the potential noise impact.

4.0 SITE AND SURROUNDINGS

- 4.1 The site is an area of grassland covering approximately 1275sqm. It is behind East Thirsk Community Hall and Thirsk Community Primary School. Aside from this, the surrounding area is primarily residential with dwellings abutting to the site to the north and east. The wider site is bound by landscaping and several fairly mature trees. A PROW also runs along the western edge of the site and up into the residential area to the north.

5.0 DESCRIPTION OF PROPOSAL

- 5.1 Planning permission is sought for the construction of a multi-use games area measuring 36.6m x 20m, using a porous macadam surface. It would be bound on the two longer sides by a 3m high panel fence with a 4m high mesh fence with netting above behind either end of the area. A 1.5m high grassed bund would be created from the material stripped from the existing field which would be located directly between the games pitch and adjacent dwellings to the north, alongside a 2.5m high fence which would tightly bound the MUGA to provide an acoustic barrier. The games area would be served by four 8m high floodlight columns. The requested operating times for the area are 08:00-21:00 weekdays and 08:00-20:00 weekends and bank holidays and it is proposed that the development would be used by both the primary school and the wider community outside of school hours.

6.0 PLANNING POLICY AND GUIDANCE

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

Adopted Development Plan

- 6.2 The Adopted Development Plan for this site is the Hambleton Local Plan.

Emerging Development Plan - Material Consideration

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

Guidance - Material Consideration

- 6.4 Relevant guidance for this application is:
- National Planning Policy Framework 2021
 - National Planning Practice Guidance

7.0 CONSULTATION RESPONSES

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

Consultees

- 7.2 Town Council - Recommend approval.
- 7.3 Environmental Health - Initially requested a Noise Impact Assessment and an amended Lighting Assessment to be submitted which assessed the site as being within

Environmental Zone E2 (sparsely inhabited rural areas, village or relatively dark outer suburban locations).

It was subsequently confirmed that the Noise Impact Assessment demonstrated that internal and external guidelines in terms of noise impact on nearby residential properties and gardens emitted from the MUGA would be met subject to the fencing being installed. It is requested a Noise Management Plan be conditioned if permission is granted.

Furthermore, in terms of lighting, it has been confirmed that the lighting scheme meets limits as described in the Institute of Lighting Professionals (ILP) Guidance Note 01/21, The Reduction of Obtrusive Light for Environmental Zone E2 and therefore no light pollution will occur.

7.4 Environmental Health (Contaminated Land) - No information has been submitted in support of the above development in relation to contaminated land however the site is already used by sensitive receptors and no new sensitive receptors are being introduced to the site and as such the risk of contamination affecting the development or end users is likely to be low. Some earthworks are being undertaken, therefore, to address any unexpected visual or olfactory evidence of contamination that could be encountered during any approved site preparation works it is recommended a suitable condition be included if permission is granted.

7.5 RAF Safeguarding - No objections.

Local Representations

7.6 Local representations have been received of which 5 are in support and 3 are objecting. A summary of the comments is provided below, however, please see website for full comments.

7.7 Support

- It will encourage healthy living and exercise.
- A fantastic opportunity for the youth of Hambleton and wider community.

7.8 Object

- Proximity to adjacent dwellings.
- Hours of use are unreasonable.
- Lighting will be obtrusive.
- Noise arising from the development will be harmful.
- The bunding should be located to the west of the area adjacent the nearest dwellings.
- There are already sports facilities in the town.
- Drainage concerns.
- Impact on ecology.
- Concerns raised about the timings used in the Noise Impact Assessment and Lighting Assessment.
- Visual impact of the proposed noise barrier.

8.0 ENVIRONMENTAL 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
- Design and visual impact
- Impact on residential amenity
- Landscaping and BNG
- Other matters raised in representations

10.0 ASSESSMENT

Principle of Development

- 10.1 Policy IC3 of the Local Plan states that the Council will seek to protect and enhance sport and recreational facilities in order to support the health and well-being of local communities. Also relevant is policy S3 of the Local Plan which states that the development strategy for Hambleton is to focus growth at Northallerton and Thirsk, where development will benefit from and support the wide range of services and facilities and good transport connections of these two main towns.
- 10.2 It is considered that the proposed development helps to meet both of the aims outlined above. The site is within one of the most sustainable settlements in the district and would therefore be accessible for a large number of people. It would also help to support an existing school and community hall and thus there is an operational need for it to be sited in this location. It is considered the development represents a tangible benefit to the wider community and is ultimately sustainable development in an appropriate location. Consequently, the principle of the development is acceptable.

Design and Visual Impact

- 10.3 Policy E1 of the Local Plan requires all development to be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place. It goes on to outline a number of design principles that help to achieve this overarching aim such as ensuring development respects and contributes positively to local character, identity and distinctiveness in terms of form, scale, layout, height, density, visual appearance, visual relationships, views and vistas, the use of materials, native tree planting and landscaping.
- 10.4 Generally the multi-games area has a functional design and is what one would expect for such a development. It is accepted that the adjacent fencing and bunding which is included for noise mitigation purposes are contrived features which could not be said to be high quality design, however, given the location within an enclosed parcel of land directly adjacent to the school, the wider impact of these features would be negligible and therefore this is given limited weight in the planning balance.
- 10.5 The retention of the existing landscaping on the periphery of the site is welcomed and will ensure views from the adjacent dwellings are softened. To this end, all works will be outside of the root protection areas of the nearby trees.
- 10.6 The ancillary development by way of a small timber maintenance building is of a suitable design for the proposed use and will be viewed as a small part of the wider development that in and itself is not harmful.
- 10.7 All in all it is considered that the development complies with the requirements of policy E1 and is acceptable on design grounds.

Impact On Residential Amenity

- 10.8 Policy E2 of the Local Plan requires all proposals to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and

buildings, in particular those in residential use. A proposal will therefore be required to ensure (as material):

- the physical relationships arising from the design and separation of buildings are not oppressive or overbearing, and in particular will not result in overlooking causing loss of privacy
- there are no significant adverse impacts in terms of noise (particularly with regards to noise sensitive uses and noise designations), including internal and external levels, timing, duration, and character
- that adverse impacts from obtrusive lighting will be made acceptable

10.9 The first issue at hand in this respect is the noise arising from the use of the MUGA and the subsequent impact on the residential amenity of the occupants of the nearby houses, the closest of which will be approximately 20m to the west of the playing area. In order to assess the potential impact in this respect, a Noise Impact Assessment (NIA) has been provided. The NIA uses the following targets for acceptable noise levels that were provided by Environmental Health:

"The internal and external noise levels to be achieved are detailed below:

(a) 30dB LAeq,8hr / 35dB LAeq, 16 hr in bedrooms.

(b) Living rooms- 35dB LAeq,16 hrs

(c) Dining Room - 40dB LAeq,16hr

(d) 45 dB LAmax,- individual noise events no more than 10 times a night.

(e) 50 dB external amenity. Hambleton district is essentially a rural area with lower background noise levels. The lower standard of 50dB (LAeq, 16hr) is practically achieved through orientation or localised screening."

10.10 The NIA is based on data from 9 other similar sports pitches where activities included football, hockey, and rugby, with men, women and children participating in different sessions. This noise data is then applied to the site in question using modelling software to predict the level of noise at the nearby noise-sensitive receptors during use of the proposed MUGA. The Council's Environmental Health Team have reviewed the results of the assessments and the NIA as a whole and confirmed the noise output from the development at the nearby dwellings would be in line with the targets set out above, subject to the implementation of the 2.5m high fencing around the northern and western sides of the MUGA. This fencing is shown on the proposed Site Plan and a suitably worded condition to ensure it is in place prior to the development coming into use is recommended. The NIA also identifies sources of noise that may be louder but more transient in nature - such as whistles, shouting and ball impact. In order to control such sources of noise, a Noise Management Plan is recommended. This would include things such as a 'no whistle policy' passed a certain time and neoprene isolators within the fences which can help reduce the noise of ball impacts on the fences. Environmental Health are content that such measures will help to control the potential maximum noise to an acceptable level and thus recommend a Noise Management Plan be conditioned.

10.11 In terms of lighting, it is proposed that four 8m high columns with 200 lux floodlighting will be installed around the MUGA. A Lighting Assessment which effectively shows the level of light spillage at the nearest sensitive receptors, i.e. the adjacent dwellings, has been provided. The Council's Environmental Health Team have also reviewed this technical assessment and confirmed that the lighting scheme meets limits as described in the Institute of Lighting Professionals (ILP) Guidance Note 01/21, The Reduction of Obtrusive Light for Environmental Zone E2 and consequently it is considered the level of light reaching the adjacent properties will not be harmful to the living conditions of the occupants. Conditions are recommended ensuring that upon installation, the lighting is tested to ensure the predicated output is what is achieved, as well as ensuring that the lighting is not used past the curfew of 9pm.

- 10.12 Based on the above assessments, it is considered that the development would have an acceptable impact on the residential amenity of surrounding residents and therefore the requirements of policy E2 are met.

Landscaping and Biodiversity Net Gain

- 10.13 Policy E3 of the Local Plan requires all development to demonstrate the deliverability of a net gain in biodiversity. No information relating to BNG has been provided on this occasion. However, the site at present is mown grassland that is of a low value in terms of biodiversity. Furthermore, there is ample land within the applicant's control that could otherwise be used to offset the development in this respect, which would not be onerous given the aforementioned negligible value of the site. As a last resort the applicant could also apply for credits from a habitat bank. Consequently, it is considered that the matter of how net gain in biodiversity will be provided can be dealt with through a suitably worded condition.

Other Matters Raised In Representations

- 10.14 There are two pertinent matters raised in the objections that have not otherwise been addressed in the sections above, namely a) the impact on protected species and b) surface water drainage.
- 10.15 In terms of the former, it is important to note that this site is an area of grassland within the grounds of a school in a town centre location that is surrounded by dwellings and other built form. Consequently, the value from an ecological perspective is considered to be minimal. The potential impact of light spill on birds is noted but the information submitted has shown that this is going to be below the level that would be expected for this type of location and therefore the additional impact is going to be minimal. Thus it is considered that the impact on protected species will be acceptable and no further information is needed.
- 10.16 Finally, in relation to surface water run-off, it is important to note that the vast majority of the surfacing proposed is porous and it does allow water to infiltrate through it and additional water run-off will therefore be minimal. The site is in flood zone 1 and thus is by definition at the lowest risk of flooding in any case. On this basis it is considered that the development will not materially increase the risk of flooding elsewhere and no further information is required.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The above assessment demonstrates that this development represents a wholly sustainable development which would provide tangible benefits to the school and the wider community which must be given considerable weight in the planning balance. Whilst it is accepted that certain measures such as the 2.5m high fencing and landscape bund are not usually desirable features from a design perspective, this site remains well-contained within the school site and thus the overall impact will be minimal, and any harm is outweighed by the aforementioned benefits. In depth information relating to the potential impact on amenity has been provided which have been robustly analysed by the Council's Environmental Health Team who have confirmed the site can be managed in a way that ensures no harm arises to the living conditions of nearby residents. Consequently, it is considered that on balance the scheme is acceptable, and approval is therefore recommended.

12.0 RECOMMENDATION

- 12.1 That Permission be GRANTED.

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

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

- 2 The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 03 Rev. 01 and 04 Rev. 00 received by the Local Planning Authority on 08.09.2023 and 25.02.2024 unless otherwise approved in writing by the Local Planning Authority.

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

- 3 The development shall be undertaken in accordance with the details of materials provided in appendix D of the Design and Access Statement received by North Yorkshire Council on 08.09.2023

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

- 4 Prior to the development hereby approved coming into use, a Noise Management Plan shall be submitted to the Local Planning Authority (LPA). This must address the points raised in section 8 of the Noise Impact Assessment (document ref.: 10621/SF). Once approved in writing by the LPA, this Noise Management Plan must remain in force for the lifetime of the development.

Reason: In order to control noise and ensure no harm arises to the amenity of neighbouring residents, in line with the requirements of policy E2 of the Local Plan.

- 5 Prior to the development hereby approved coming into use, the bund and 2.5m high timber acoustic fencing shown on drawing number 03 Rev. A shall be in place. These features must then remain in place for the lifetime of the development.

Reason: In order to control noise and ensure no harm arises to the amenity of neighbouring residents, in line with the requirements of policy E2 of the Local Plan.

- 6 On completion of the sports lighting installation and prior to the lighting being brought into use, the system shall be tested and commissioned to ensure the LUX levels submitted as part of this application are achieved and not exceeded. In the event the levels exceed the agreed details, this must be rectified. The results of this test must be submitted to the Local Planning Authority. Once the agreed LUX levels are achieved, the lighting specification must not be altered unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to avoid obtrusive lighting and to protect the amenity of neighbours as required by policy E2 of the Local Plan.

- 7 The development hereby approved shall not be used outside of the following hours:
08:00-21:00 weekdays
08:00-20:00 weekends and bank holidays.

The floodlights shall be controlled by control switches and timers to ensure they do not remain switched on outside of these times.

Reason: In the interests of residential amenity as required by policy E2 of the Local Plan.

- 8 Prior to the commencement of development a landscaping and biodiversity net gain scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide a) a landscape scheme including details of any change in surfacing materials and any planting schemes and shall show the retention of any significant existing landscape features and shall provide b) details to show how a 10% net gain of biodiversity will be achieved on site using the DEFRA biodiversity metric 3.1 (or the latest published version) and include a programme of work and subsequent maintenance arrangements. The development shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure that a suitable landscaping scheme is achieved for the development and that a net gain in biodiversity is achieved in accordance with the Hambleton Local Plan policies S1, E1, E3 and E7.

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

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

Target Determination Date: 19 April 2024

Case Officer: Mr Nathan Puckering
nathan.puckering@northyorks.gov.uk

North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

18 APRIL 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.

2.0 Background

- 2.1 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.
- 2.2 The application was reported to the Area Planning Committee meeting held on 21 March 2024 where the item was deferred at the request of Members to allow further consideration of the proposed accesses serving the application site.
- 2.3 The substantive report published for the Area Planning Committee meeting held on 21 March 2024 is appended to this update report (Appendix A).

3.0 Reasons for deferral

- 3.1 In deferring the application Members requested that consideration is given to the following:-
- whether the temporary construction traffic access to and from the B1257 could be an alternative option for residential traffic accessing the application site.
 - whether the applicant for the adjacent residential development site (Castle Howard Estates Ltd) would be agreeable to an additional clause within the Section 106 agreement associated with ZE23/05729/MFUL to secure the provision of an unfettered/un-ransomed road connection to the 23/00348/MFUL site boundary prior to the occupation of any dwellings on their development site.

4.0 Further considerations and discussion

Residential access direct from the B1257

- 4.1 The application does not propose the use of the B1257 for residential traffic and in light of this no formal consultation on any specific detail has been completed. Nevertheless

the prospect of the B1257 being used as an vehicular access for residents was put to the Local Highway Authority for consideration.

- 4.2 The Council's Highways Officer has stated the following in response:-

“The rationale behind the access direct off the B1257 via the existing field access (being widened and up-graded as appropriate) is to ensure construction traffic can have a separate access to and from the site that avoids, so far as reasonably practicable, the need to gain access through Aspen Way.

I would have concerns whereby there would be a mix of construction and residential traffic sharing the access off the B1257, and what would be a privately-maintained link beyond, which could potentially go either through, or adjacent to, a working site compound involving moving site traffic and materials delivery and transportation being undertaken, with potentially no bound surfacing, drainage or means of lighting. Furthermore, there would be a need to provide this access route outside of site working hours and to be available for potential pedestrian activity through a building site zone and onto a road that does not have any specific provision for dedicated pedestrian access, albeit subject to a lower temporary speed limit applied during the build phase.

The suggested arrangements, even in the context of being of a temporary nature, are not considered to be in the interests of site and third party safety and would create an unsatisfactory access arrangement in that respect”.

- 4.3 The Council's Highways Officer has also reiterated that there is no highway objection to a direct link into Aspen Way (between numbers 12 & 14 Aspen Way) from the application site to be used for residential access purposes, subject to the internal layout as submitted being put in place (e.g. provision of a dedicated, separate footway, vehicle turning area, and link up to the western boundary, along with the on-plot vehicle parking provision etc.).
- 4.4 In light of the above there is no change to the conditions recommended by the Local Highway Authority as set out in their response dated 14 March 2024.

Castle Howard Section 106 agreement- additional clause to provide unfettered access

- 4.5 Members sought clarification on whether the construction programme for the Castle Howard development site would allow for an unfettered road connection to be formed up to the site boundary prior to the occupation of any dwellings within the Castle Howard development site thus removing the need for the proposed alternative access between numbers 12 and 14 Aspen Way.
- 4.6 The LPA and the applicant for the development the subject of this report contacted Castle Howard Estates Ltd to ask whether they were willing to include a clause in the legal agreement to deliver an unfettered access connection up to the boundary with the eastern site prior to the occupation of any dwellings within the Castle Howard development site.
- 4.7 Castle Howard Estates Ltd have responded in writing to decline the request. They have stated that there are a number of reasons for this, including the concern from the community in relation to the application before committee.
- 4.8 As Members are aware the two sites are in separate ownership and with the above in mind it is anticipated that private rights of access across the land would remain until adoption of the roadways by the Local Highway Authority. The permissions for each site are to be conditioned to ensure the creation of the road link connection to adoptable

standards. Officers consider that the conditions are sufficient to secure the delivery of the road link for the adjoining residential developments without a Section 106 obligation.

5.0 Relevant highways conditions

- 5.1 The full schedule of recommended conditions is provided in Section 7 of this update report but it is considered prudent to provide additional commentary on the matters the subject of key highways related conditions as set out below:-
- 5.2 Condition 3 requires the submission and approval of a construction phasing plan prior to the commencement of development.
- 5.3 Condition 4 will provide control to ensure that the road link to the western boundary of the application site (as shown on the Proposed Site Layout Plan) is formed within 3 months of the formation of the corresponding link from the Castle Howard site.
- 5.4 Condition 5 will provide control to ensure that a scheme for the closure/downgrading of the vehicular access between numbers 12 and 14 Aspen Way is submitted for approval to the LPA within 1 month of the formation of the road link from the Castle Howard site. The condition requires the completion of the closure/downgrading works within 3 months of receipt of written approval from the LPA.
- 5.5 Condition 7 will provide control to ensure that roads and footways are constructed to adoptable standards prior to the development being brought into use and that a programme for the phasing of all road works is submitted and approved in writing by the LPA.
- 5.6 Condition 8 will provide control to ensure that the construction access off the B1257 is permanently closed off in accordance with a scheme first approved by the LPA prior to dwellings in plots 12 & 13 being brought into use.
- 5.7 Condition 12 (1 & 2) will provide control to ensure that all construction traffic into and out of the application site will be via the enlarged and upgraded field access direct off the B1257 (with a temporary lower speed limit in the vicinity of the access), up to when plots 12 & 13 (& parking areas) are to be constructed at which point the remaining construction traffic could access the site via the new entrance between 12 and 14 Aspen Way unless the link via the Castle Howard site has become available for that same purpose.

6.0 Summary and conclusions

- 6.1 The matters raised by Members have been explored, however, the Local Highway Authority is not supportive of the use of the B1257 for residential access and Castle Howard Estates Ltd are unwilling to accept an additional clause within their S106 agreement to provide unfettered access through their site prior to the occupation of any dwellings.
- 6.2 There are no objections to the application from the Local Highway Authority. The proposed highway arrangements are considered to be acceptable and, subject to the recommended conditions being imposed, would not result in an adverse impact on highway safety or capacity in compliance with the NPPF (2023) and Policy SP20 of the Ryedale Plan- Local Plan Strategy (2013).
- 6.3 In light of this the Officer recommendation and proposed conditions as set out in the earlier report and late pages from the 21 March 2024 meeting are unchanged.

7.0 RECOMMENDATION

- 7.1 That planning permission be **GRANTED** subject to the conditions listed below and completion of a Section 106 legal agreement with regard to affordable housing, commuted sum and Public Open Space.

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:

Location plan ref. 1774/1
 Proposed Site Layout Plan ref. 1774/2D
 Proposed street elevation ref.1774/3B
 Proposed plot 1 house type ref.1774/4
 Proposed plot 2 house type ref.1774/5
 Proposed plot 3 house type ref.1774/6
 Proposed plot 4 house type ref.1774/7
 Proposed plot 5 house type ref.1774/8
 Proposed plot 6 house type ref.1774/9
 Proposed plot 7 house type ref.1774/10
 Proposed plot 8 house type ref.1774/18
 Proposed plot 9 house type ref.1774/11B
 Proposed plot 10 affordable house types ref.1774/12
 Proposed plot 11 affordable house types ref.1774/13
 Proposed plots 12 & 13 affordable house types ref.1774/14A
 Proposed garage plans (plots 2/3 & 7/8) ref. 1774/15
 Proposed garage plans (plots 5 & 9) ref. 1774/16

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.

Access road

- 4 No later than 3 months from the date of the formation of the adoptable vehicular access link within the development site to the west ('the Castle Howard site') the corresponding and connecting vehicular access link to the western boundary of the application site as shown on approved drawing ref. 1774/2D shall be made up and

surfaced in accordance with approved details and highways specification.

Reason: In the interests of providing unfettered access between the two fields/sites to comply with Policies SP16 and SP20 of the Ryedale Plan- Local Plan Strategy (2013) and Policy SD11 of the Ryedale Plan- Local Plan Sites Document (2019).

Closure/downgrading of Aspen Way access (between numbers 12 & 14 Aspen Way)

- 5 No later than 1 month from the date of the formation of the adoptable vehicular access link within the development site to the west ('the Castle Howard site') the applicant/developer shall submit a detailed scheme for the closure/downgrading of the Aspen Way vehicular access (between numbers 12 & 14 Aspen Way) as shown on approved drawing ref. 1774/2D for written approval by the Local Planning Authority. The works for the closure/downgrading of the access shall be completed in accordance with the approved details and within 3 months of receipt of written approval of the scheme.

Reason: In the interests of highway safety and the amenity and convenience of all highway users in compliance with Policy SP20.

Detailed Plans of Road and Footway Layout

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

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

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

Construction of Adoptable Roads and Footways

- 7 No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

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

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

Closing of Existing Access (B1257) at Land at Aspen Way Slingsby

- 8 The development of plots 12 & 13 as shown on approved drawing ref. 1774/2D must not be brought into use until the existing access onto the B1257 Malton Road has been permanently closed off in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

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

Pedestrian Visibility Splays at Land at Aspen Way Slingsby

- 9 There must be no access or egress by any vehicles between the highway and the application site at Land at Aspen Way Slingsby until visibility splays providing clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway of the major road have been provided. In measuring the splays the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

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

Parking for Dwellings

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

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

Garage Conversion to Habitable Room Plots 1, 2, 3, 5, 7, 8 & 9

- 11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason: To ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development and in compliance with the adopted minimum parking standards for residential dwellings as given in the NYCC document Interim Parking Standards 2015 in compliance with Policy SP20.

Construction Management Plan

- 12 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 off the B1257 including appropriate size and specification, the making and implementation of a temporary

Traffic Regulation Order for a lower local speed limit in the vicinity of the access and measures for removal following completion of construction works;

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

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

Site levels

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

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

Hours of construction

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

0800 -1800 hours Mondays to Fridays

0800 -1300 hours Saturdays

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

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

Materials (surfaces)

- 15 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)

- 16 Prior to the commencement of any aboveground construction work details and samples of the materials to be used on the exterior of the buildings the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority. The materials shall be substantially in accordance with the details contained in Section 4.33 of the Planning, Design & Access Statement, dated March 2023.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20.

Materials (panels)

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

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

Windows and doors

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

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

Obscure glazing

- 19 The first floor window in the side (north) elevation of the dwellings in plot 1 as shown on drawing 'Proposed plot 1 house type' ref.1774/4) shall be permanently obscure glazed with glass of Pilkington Level 5 obscuration or equivalent. The obscure glazing shall be retained for the lifetime of the development.

Reason: In the interests of residential amenity to comply with Policy SP20.

Restriction on additional windows (plot 1)

- 20 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order revoking, re-enacting or amending that

Order), no first floor windows or door openings shall be formed in the side (north) elevation of the dwelling in plot 1 without the prior written consent of the Local Planning Authority following a specific application in that respect.

Reason: In the interest of residential amenity in accordance with Policies SP16 and SP20.

Lighting

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

Reason: In the interests of visual amenity and to ensure safe access to the public open space in compliance with Policies SP16 and SP20.

Boundary treatments

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

Reason: To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality in compliance with Policies SP16 and SP20.

Retention of existing planting

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

Reason: To ensure the desirable retention of all landscape elements that are considered to be of amenity value in compliance with Policies SP16 and SP20.

Retention of southern boundary hedge

- 24 The existing hedgerow along the southern boundary of the site that is shown on the approved Proposed Site Layout Plan ref. 1774/2D as being retained and reinforced shall be maintained at a minimum height of 1.6 metres for the lifetime of the development. Upon the completion of the construction phase and prior to the occupation of the final dwelling within the application the existing field gate in the southern boundary shall be removed and the access permanently closed off with the planting of a native hedgerow.

Reason: To ensure the desirable retention of all landscape elements that are considered to be of amenity value in compliance with Policies SP13, SP16 and SP20.

Tree Protection

- 25 All works shall be carried out in accordance with the approved Arboricultural and Landscape Report dated March 2019 produced by Mark S Feather 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), ground protection works and protective fencing required by the Arboricultural and Landscape 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 on the site in the interests of visual amenity and the character of the area in compliance with Policies SP13, SP16 and SP20.

Landscape scheme

- 26 No development of the site shall take place without the prior written approval by the Local Planning Authority of a landscape scheme for the site that indicates numbers, species, heights on planting, and positions of all trees and shrubs, specifications and schedules, phasing of planting, seeding or turfing, existing plants to be retained and showing how new landscaping relates to any underground services and existing landscape features. The scheme shall include details of the hedgerow enhancement the subject of the BNG calculations which accompany the application. Thereafter the scheme shall be implemented as approved unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and to achieve a high standard of landscaping in compliance with Policies SP13, SP16 and SP20.

Commencement of planting

- 27 All planting, seeding or turfing set out in the details approved in Condition 26 shall be carried out in accordance with the approved phasing plan and beginning the first planting season following commencement of development or such longer period as may be agreed in writing with the Local Planning Authority. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and to achieve a high standard of landscaping in compliance with Policies SP13, SP16 and SP20.

Preliminary Ecological Appraisal

- 28 All works shall be carried out in accordance with the details contained within paragraphs 8.2.5.1 to 8.2.5.3 (enhancements for bats including provision of at least 4 bat boxes); Section 8.4.5 (nesting birds and provision of at least 8 bird nesting boxes); Section 8.7.4 (precautions to reduce risks to Hedgehogs) of the Preliminary Ecological Appraisal, dated 21 October 2022 produced by Wold Ecology Ltd.

Reason: To comply with the requirements of Policy SP14.

Archaeology

29 No development shall commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

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

No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition.

Reason: The site is of archaeological significance and to comply with the NPPF and Policy SP12.

30 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 29 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: The site is of archaeological significance and to comply with the NPPF and Policy SP12.

Flood Risk and drainage

31 The Development shall be built in accordance with the following submitted designs;

- Plot Drainage, Shaun Tonge Engineering, Reference STE/233/01/03, Revision C, Dated 29/02/2024.
- Exceedance Plan, Shaun Tonge Engineering, Reference STE/233/01/14, Revision 1, Dated 04/01/2024.
- Drainage Management Plan, Shaun Tonge Engineering, Reference STE/233/01/18, Revision 1, Dated 20/02/2024.
- Impermeable Areas, Shaun Tonge Engineering, Reference STE/233/01/04, Revision B, Dated 20/02/2024.
- Highway Soakaway and Silt-trap Details, Shaun Tonge Engineering, Reference STE/233/01/16, Revision 1, Dated 17/01/2024.
- Domestic Soakaway Typical Detail, Shaun Tonge Engineering, Reference STE/233/01/09, Revision 1, Dated 09/02/2023.
- Plot 1&2 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Plot 3&4 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Plot 5 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Plot 6&7 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Plot 8 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Plot 9 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Plot 10&11 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.

- Plot 12&13 Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Highway Drain Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Highway Soakaway Calculations, Shaun Tonge Engineering, Dated 20/02/2024.
- Trial Hole Location Plan, Rawcliffe Associates Ltd, Dated 26/01/2023
- Section 38 Plan, Shaun Tonge Engineering, Reference STE/233/01/15, Revision 1, Dated 17/01/2024.
- Section 104 Plan, Shaun Tonge Engineering, Reference STE/233/01/11, Revision A, Dated 17/01/2024.
- Flood Risk Assessment, ARP Associates, Reference 1180/01r1a, Revision A, Dated 24/05/2018.
- Soakaway Tests, Rawcliffe Associates Ltd, Reference Misc.W&WEstates.Dan Warrington.AprinWay.Slingsby, Dated 26/01/2023.

A 40% allowance has been included for climate change and an additional 10% allowance for urban creep for the lifetime of the development. Storage has been provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event. The scheme includes a detailed maintenance and management regime for the storage facility. Principles of sustainable urban drainage shall be employed wherever possible.

Reason: To ensure that the development is built to the submitted drainage design; to prevent the increased risk of flooding; to ensure the provision of adequate and sustainable means of drainage in the interests of amenity and in compliance with the NPPF and Policy SP17.

- 32 The development shall be carried out in accordance with the details shown on the approved Flood Risk Assessment (rev A)1180/01r1a prepared by ARP, dated 24/05/2018, unless otherwise agreed in writing with the Local Planning Authority.

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

Removal of permitted development rights (means of enclosure)

- 33 Notwithstanding the provisions of Schedule 2, Part 2 the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modifications), no fences, gates, walls or other means of enclosure shall be erected within the curtilage of any dwellinghouse other than as shown on the approved plans, or as may be approved by the Local Planning Authority following specific application in that respect.

Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s) in compliance with Policies SP13, SP16 and SP20.

Removal of permitted development rights

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

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

Class B: Additions etc to the roof of a dwellinghouse
 Class C: Other alterations to the roof of a dwellinghouse
 Class D: The erection or construction of a porch outside any external door of a dwellinghouse
 Class E: Buildings etc incidental to the enjoyment of a dwellinghouse
 Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse

Reason: To ensure that the appearance of the areas is not prejudiced by the introduction of unacceptable materials and/or structure(s) in compliance with Policies SP13, SP16 and SP20.

Electric Vehicles Charging Points

- 35 Prior to the commencement of any aboveground construction work a scheme for the provision of one electric vehicle charging point per house shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the EV charging points shall be installed in accordance with the approved details prior to occupation of the dwelling.

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

INFORMATIVES

Condition 6- Detailed Plans of Road and Footway Layouts

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

To assist, the Local Highway Authority can provide a full list of information required to discharge this condition. It should be noted that approval to discharge the condition does not automatically confer approval for the purposes of entering any Agreement with the Local Highway Authority.

The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition

Condition 9- Pedestrian Visibility Splays

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

Condition 12 (sub-section 1)- New and altered Private Access or Verge Crossing

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's web site: Road adoption | North Yorkshire Council.

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

Other Permissions required from the Local Highway Authority

Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278,

38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions).

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

Target Determination Date: 21.07.2023

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

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

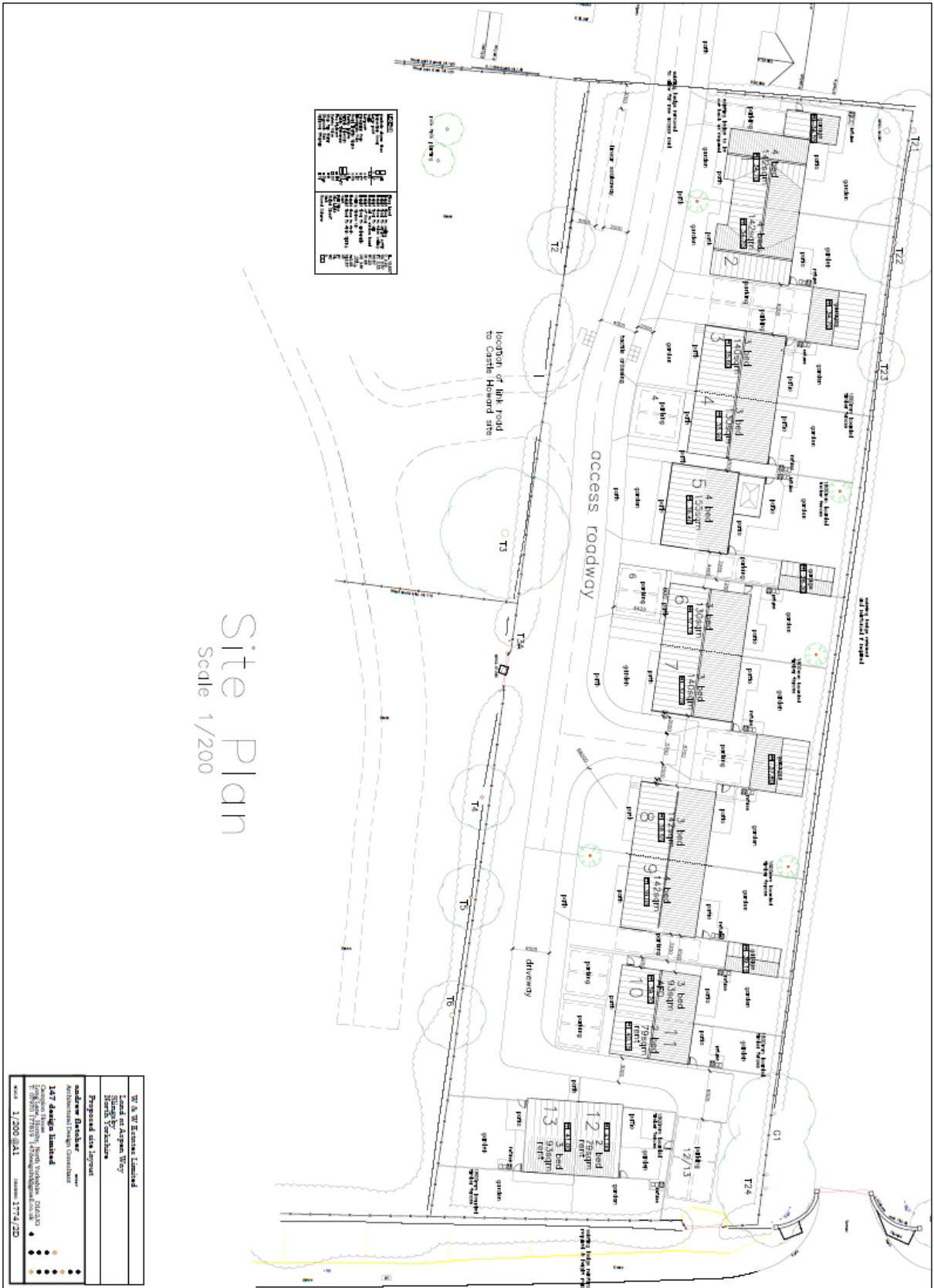
1.0 Purpose of the Report

- 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

18 APRIL 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.

2.0 Background

- 2.1 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.
- 2.2 The application was reported to the Area Planning Committee meeting held on 21 March 2024 where the item was deferred at the request of Members to allow further consideration of Condition 10 regarding deliveries to the premises and further investigation into the proposed Traffic Regulation Order relating to Main Street, Welburn.
- 2.3 The substantive report published for the Area Planning Committee meeting held on 21 March 2024 is appended to this update report (Appendix A).

3.0 Reasons for deferral

- 3.1 In deferring the application Members requested that consideration is given to the following:-
- A re-consideration of the delivery time restriction which currently allows for deliveries to the premises from 04:00 hours.
 - The status and impact of the Traffic Regulation Order relating to Main Street, Welburn.

4.0 Further considerations and discussion

Delivery time restriction

4.1 Condition 10 of planning permission ref. 23/00077/73 states:-

'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'.

4.2 The delivery time restriction condition was first imposed at the request of Ryedale District Council's Planning Committee when application ref. 21/01590/73A was approved in March 2022. The condition was subsequently carried forward when permission ref. 23/00077/73 was granted in April 2023.

4.3 Officers are aware that the 4am start time for deliveries is a matter of local concern and is an issue that the Members of the Area Planning Committee which to be re-visited.

4.4 At the request of the Local Planning Authority (LPA) the applicant has provided a further supporting statement which contains details of all deliveries to the premises. A copy of the statement is included at Appendix B.

4.5 The delivery schedule illustrates that, at present, the majority of deliveries to the premises generally occur during normal business hours of 08:00 to 17:00 hours. However, there are suppliers who deliver earlier in the day with the earliest being 05:45 hours.

4.6 Deliveries to the premises are carried out by various local and nationwide suppliers and are not under the control of the applicant. The applicant has identified that the delivery which on occasion occurs at or around 05:45 hours is by a single supplier. The applicant has been able to obtain written confirmation from that particular supplier that no deliveries shall take place before 06:00 hours. In addition a local supplier has made the same commitment in writing.

4.7 In light of the above the applicant has stated that it would be appropriate to amend the existing delivery time condition to read as follows:-

'There shall be no deliveries to the café/shop/takeaway premises prior to 06:00 hours each day.'

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

Traffic Regulation Order relating to Main Street, Welburn

4.8 The Local Highway Authority (LHA) has confirmed that a Traffic Regulation Order (TRO) 'Proposed Prohibition of Waiting at all Times' (double yellow lines) for Main Street, Welburn is under preparation following the completion of the public consultation and statutory advertisement stages.

4.9 The TRO is made under a separate regulatory regime pursuant to highway legislation and separate to the planning process. The report of the Assistant Director – Highways & Transportation (dated 22 February 2024) for the TRO concludes *"It is considered that the proposals are proportionate and still leave adequate on street parking throughout*

the village for visitors to facilities and the wider surroundings". Once the TRO is made (sealed) it would introduce double yellow lines on the southern side of the main road, to the front of Dogh. It should be noted that it is allowable to park on double yellow lines for a limited period of time for the purposes of loading/unloading. It is anticipated that the road markings will be installed in Summer 2024.

- 4.10 The applicant has also made further comments on the parking and traffic situation which are set out in the supporting statement attached to this report at Appendix B. The applicant proposes to take additional steps to alleviate potential parking issues during evening events. The applicant states that they will arrange for evening event staff to park in the car park to the rear of the Crown and Cushion public house. In addition the applicant will make it clear in communications with those attending evening events that parking on the private service road should be avoided. In view of the impending TRO and the restriction on parking on the public highway alternative parking arrangements can only be for local businesses, community uses and residents to manage and address on an individual basis.

Further comments from the Local Highway Authority

- 4.11 It has not been necessary to undertake a formal re-consultation exercise, however, the LPA has sought further comments from the LHA in relation to the above matters and potential highways impacts.
- 4.12 The Highways Officer has no concerns in relation to the proposed amendment to the delivery time condition to restrict deliveries to not before 06:00 hours.
- 4.13 The Highways Officer has considered the applicant's further supporting statement and, in terms of parking pertaining to evening events, states "*whilst the arrangements with the Crown and Cushion may be regarded as informal, it does illustrate a pragmatic approach, and together with the other measures mentioned does present a reasonable way to manage the issue of visitor car parking to the venue*".
- 4.14 With regard to the TRO the Highways Officer has observed that "*The introduction of the 'no waiting' TRO restriction could potentially displace a limited amount of on-street parking, but is also aimed to keep visibility clear at side road junctions and afford a reasonable opportunity to ensure a flow of through traffic can be maintained*".
- 4.15 The Highways Officer concludes that even with the introduction of the TRO, visitor parking allied to the increase in evening events at the site would not give rise to a significant impact on local highway capacity and safety.

5.0 Summary and conclusions

- 5.1 The matters raised by Members have been investigated and further information has been obtained from the applicant and the Local Highway Authority as set out above.
- 5.2 In determining a Section 73 application, the LPA has to consider which conditions the permission should be granted subject to and whether they should differ from those imposed on the previous permission. This has enabled Officers to look again at all the existing conditions and whether they should be carried over, varied or removed. After considering the delivery information provided by the applicant and liaising with the Council's Planning Solicitor, it is considered that the continued imposition of a condition which allows deliveries to the premises as early as 04:00 hours would not be necessary or justifiable. In the interests of ensuring no unreasonable impacts on residential amenity it is recommended that the condition should be varied (as suggested by the applicant) to restrict deliveries to not before 06:00 hours, should permission be granted.

- 5.3 The TRO is noted and it remains the case that there are no objections to the application from the Local Highway Authority and the further steps to be taken by the applicant to manage parking demand for evening events is welcomed albeit being informal and involving third parties.
- 5.4 In conclusion 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.
- 5.5 In light of this the Officer recommendation as set out in the earlier report from the 21 March 2024 meeting is unchanged and the only additional alteration to conditions is to amend the wording of Condition 10 to only allow deliveries to the premises from 06:00 hours onwards.

6.0 RECOMMENDATION

- 6.1 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 layout drawing ('licensed area'). 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 06:00 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

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

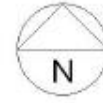
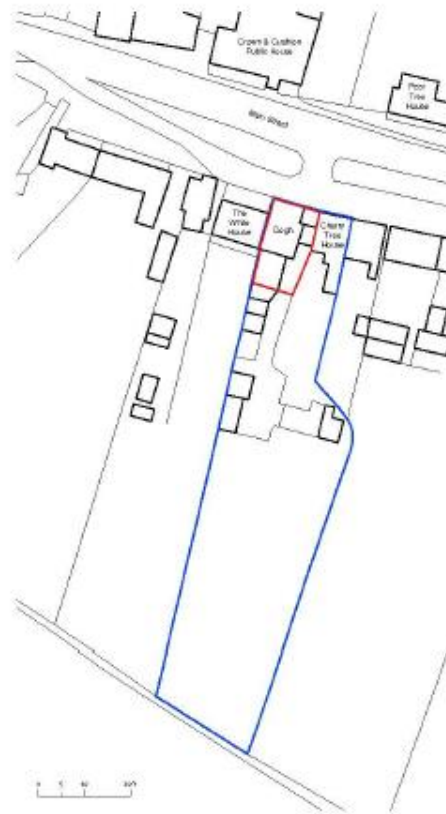
- 1.1 To determine a planning application for the variation of Condition 02 of planning approval 23/00077/73 dated 18.04.2023 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year on 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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Rev	Description	By	Date
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



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Project DOGH

Address WELBURN

Client S & S HOLT

Drawing Title

SITE LOCATION PLAN

Job No.	Draw No.	Revisions	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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Supporting Statement following decision deferral - further information on opening hours, deliveries and parking.

Opening Times and Deliveries

Following the planning committee meeting on the 21st March 2024, we would like to provide further information regarding condition 10, which was imposed on the business by the members of the council as part of the decision notice for application 21/01590/73A, granted on the 18th March 2022. The condition reads as follows:

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.

The condition was suggested by the council following a complaint of a delivery being made prior to 4am, when a local supplier was unable to deliver at any other time. The business was not made aware prior to the incident that they planned to deliver this early, and we would have advised that this was not an appropriate time. We would like to highlight that since the condition has been in place, we have not received any deliveries prior to 5.30am, and we do not have any staff members on site to receive deliveries at 4am.

Our current delivery schedule runs as follows (with some exceptions in extenuating circumstances):

Bako- Tuesday 5pm Wednesday 8-11am

Bookers- Every monday between 12 Noon & 3pm

Carron Lodge- Monday 6am-10am, Wednesday, 6am-8am Friday 5.45am-8am

- **We have contacted this supplier and they have committed in writing to amend our deliveries to no earlier than 6am. Letter also attached.**

Derek fox- Monday, Wednesday & Friday 8am-12 Noon

Dales - between 8am-11am every day apart from Sunday.

Rookes - Tuesday & Thursday between 8am-11am

Shepcote - Friday between 8am-11am

Turner price- Tuesdays between 8am-12 Noon

Walker Humphrey - Monday 8am-11am

York Wines - Every wednesday between 11am - 5pm

We do also have deliveries that are infrequent from the following suppliers:

Bracken hill

Breckenholme

Birdgate Chocolate

Deletali

Just so Italia

Innocent hound
Just paper bags
PPS- Next day delivery 8am-11am

These are all deliveries that are ordered infrequently or on an ad-hoc basis, with flexible timings on when they arrive, however they always deliver during business hours of 8am to 5pm.

While there may be extenuating circumstances where deliveries have to be arranged outside of the above schedule, we are confident that this provides an accurate representation of our current delivery schedule.

From this, the business requirement for deliveries does not surpass 6am, for one delivery a maximum of three times per week, while all other deliveries are made between our standard opening hours of 8am to 5pm. With this, we feel it would be appropriate to amend the current condition 10, stating a 4am delivery time, to read as follows:

10 There shall be no deliveries to the café/shop/takeaway premises prior to 06:00 hours each day.

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

We feel that as the deliveries requiring a 6am timeslot only occur on a Monday, Wednesday or Friday, they will not cause disruption to residents following our bistro nights which are usually held over the weekend.

To further support this statement, we have attached two emails from our earliest deliveries, who have both committed to not delivering earlier than 6am.

Parking and Traffic

It is well documented that there are issues with limited parking in Welburn, and that there will soon be double yellow lines in parks of the village further reducing the already limited parking spaces. While we do not wish to get into a “tit-for-tat” debate about the parking, we feel it is important that these comments are addressed in order to clear our name from being solely blamed for any issue of parking within the village.

Throughout this application process, comments have been made that Dogh is solely responsible for these issues, and the large volumes of cars in Welburn, and that we do nothing to try to resolve the situation. We would like to take the opportunity to highlight that this is entirely untrue. We try our best to request all customers do not park on the service road or block access to peoples homes, and when we see someone doing so all of our staff know to approach the customer and politely request that they park elsewhere. This is most often met with understanding from our customers and they move their vehicles. What we are not able to do is police the public, and if we do not see who has parked incorrectly then there is very little that we are able to do about it.

We understand that some of the issue is caused by our customers, and therefore are happy to keep on requesting that our customers move their vehicles where possible. What we are not happy to do is continue to be subject to online and in person abuse by members of the village, who on many occasions have entered our cafe and verbally abused our customers, or shouted generally in the direction of customers, rudely demanding that they move their cars. This creates an unpleasant atmosphere in the cafe, and usually results in us having to offer free coffees or cakes to customers by way of apology. We do not feel that it is fair that the comments made by objectors portray them as making polite requests, when the reality is that they are behaving in a rude and entitled manner towards members of the public and blaming it on Dogh. It is also worth highlighting that these individuals will often drive to the central exit of the service road (located directly outside of Dogh) and beep their horns at members of the public, despite the other two exits to the service road being completely clear. It is also clearly felt that parking on the village green is frowned upon by “tourists” and visitors to the village, but is conveniently acceptable when it comes to certain village residents parking their own vehicles, receiving deliveries or having services such as gardeners park outside their homes. If parking by patrons of Dogh is causing damage to the village green, then surely the same must apply when residents do the same.

With regards to the evening events, we propose the following steps to help alleviate any potential parking issues during these evenings, and hope that this will reduce any impact caused by the additional cars:

- During the evenings events the Crown and Cushion pub has offered that staff members of Dogh may park in their car park, removing additional cars on the road and creating space for the customers of the evening events.
- We will continue to verbally communicate with our customers and request that they park sensibly and do not block the service road
- We will add information to both our website page, and to any email marketing that requests that anyone traveling to the events by car park on the main road and not use the service road or block access to any homes.

We hope that these steps will be sufficient in reducing the impact of any additional traffic or parked vehicles during the evening events.