

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

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

**Date:** Thursday, 24 October, 2024

**Time:** 10.00 am

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

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## **Agenda**

- 1. Apologies for absence**
- 2. Minutes for the meeting held on 19 September 2024** (Pages 3 - 4)
- 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. **ZB24/01340/FUL Construction of 8 dwellings and garages, formation of new access and associated works land west of Owlwood House, West Lane, Stillington, North Yorkshire** (Pages 5 - 22)
5. **ZB24/01032/FUL Proposed change of use of existing tourism accommodation to dwellinghouse at Oakleigh Cottage, Oakleigh, Alne Station, York, YO61 1TS** (Pages 23 - 30)
6. **ZB23/02394/OUT Outline application for the erection of 20 no. dwellings (with all matters reserved except access, landscaping and layout) [Use Class C3] including demolition of existing barn and associated infrastructure land to the south of Prospect Cottages, Husthwaite, North Yorkshire** (Pages 31 - 48)
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, 21 November 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:**

Name: Nicki Lishman, Senior Democratic Services Officer  
Tel: 01653 638476  
Email: [democraticservices.east@northyorks.gov.uk](mailto:democraticservices.east@northyorks.gov.uk)

Wednesday, 16 October 2024

## North Yorkshire Council

### Thirsk and Malton Area Planning Committee

Minutes of the meeting held on Thursday, 19 September, 2024 commencing at 10.00 am.

Councillor Caroline Goodrick in the Chair, plus Councillors Joy Andrews, Lindsay Burr MBE, Sam Cross, George Jabbour (substitute), Janet Sanderson (substitute) and Malcolm Taylor.

Officers Present: Kelly Dawson, Nathan Denman, Nicki Lishman and David Walker (Development Service Manager).

Apologies: Councillors Alyson Baker and Nigel Knapton.

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

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#### **124 Apologies for absence**

Apologies for absence were received from Councillors Baker, Councillor Sanderson substituted and Councillor Knapton, Councillor Jabbour substituted.

#### **125 Minutes for the meeting held on 15 August 2024**

The minutes of the previous meeting were agreed and signed by the Chair as a correct record.

##### **Voting record**

Agreed by general affirmation.

#### **126 Declarations of interests**

There were no declarations of interest.

#### **127 ZF24/00511/FL - Demolition of existing sports hall and erection of 4 no. Holiday lets and conversion and existing leisure centre buildings to create 5no. Holiday lets, with associated hard and soft landscaping at Hunmanby Hall Sport and Leisure, Hall Park Road, Hunmanby, Filey, North Yorkshire, YO14 0HZ**

The Head of Development Management – Community Development Services sought determination of a planning application reference ZF24/00511/FL for the above development at Hunmanby Hall Sport and Leisure Hall, Park Road, Hunmanby.

The application was brought to Committee for determination following a request by the Ward Member as it involved the potential loss of a community facility and had generated considerable public interest.

The proposal was considered at the meeting of the committee held on 15 August 2024. Consideration of the application was deferred, to allow the opportunity for members to visit

the site. This followed a discussion of the uniqueness and historical importance of the site within the area of Hunmanby.

Presenting the report, officers drew Members' attention to the key elements of the application, ensuring that the substitute Members who had not attended the previous meeting, were equally well informed. In addition, the officer explained:

- Minor amendments to the conditions included in the officer's report.
- The location of the site in relation to the nearby Scheduled Ancient Monument.

Mr Alexander Dyke spoke to object to the application.

Mrs Dorothy Wilkins, Chair of the Parish Council, spoke on behalf of the Parish Council.

Councillor Michelle Donohue-Moncrieff spoke as the Division Member.

Mr Morton Schmidt-Hanse, agent, spoke on behalf of the applicant.

Discussion on the item included consideration of the following matters:

- Access from the application site to the village and railway station
- The impact on the health and wellbeing of the local community
- The requirements of HC8 of the Scarborough Local Plan

Councillor Goodrick moved and Councillor Taylor seconded that the application be approved.

Councillor Burr moved and Councillor Cross seconded that the application be refused. The motion was lost.

### **Decision**

That the Area Planning Committee be minded to approve planning permission subject to minor amendments to the conditions listed in the report. Authority be delegated to the Development Service Manager in consultation with the Chair of the Committee to amend the conditions.

The Committee was minded to request that an informative be added to the Decision Notice, that the applicant and the third-party landowner consider the provision of access from the application site to the village and railway station.

### **Voting record**

5 For  
2 Against

### **128 Any other items**

There being no items of urgent business, the meeting closed at 10.54am.

### **129 Date of next meeting**

10.00 am on Thursday, 24 October 2024.

## North Yorkshire Council

### Community Development Services

#### Thirsk and Malton Area Constituency Planning Committee

24<sup>th</sup> October 2024

#### ZB24/01340/FUL - Construction of 8 dwellings and garages, formation of new access and associated works

At Land West of Owlwood House, West Lane, Stillington, North Yorkshire

On Behalf of Ambleside Homes

#### Report Of The Assistant Director Planning– Community Development Services

### 1.0 PURPOSE OF THE REPORT

- 1.1 To determine an application for full planning permission for the construction of 8 dwellings and garages, the formation of a new access and ancillary works.
- 1.2 This application is requested to be determined by the Area Planning Committee following a referral by Cllr Taylor due to the proposal conflicting with the Hambleton Local Plan and due to public interest in the proposed scheme.

### 2.0 SUMMARY

#### RECOMMENDATION:

- 2.1 That members be minded to **GRANT** planning permission subject to the applicant entering into a legal agreement under section 106 of the Town and Country Planning Act to secure affordable housing and subject to the conditions set out in Section 12 of this report.
- 2.2 The site is located approximately 40m to the west of Stillington, in the open countryside. Stillington is defined as a Service Village within the Local Plan. The proposed scheme is for eight dwellings, with four of those being single- or one-and-half-storey (i.e. “bungalows”), with the mix comprising the following: 1 no. one-bedroomed unit, 4 no. two-bedroomed units, 2 no. three-bedroomed units, 1 no. four-bedroomed unit. The proposed works include ancillary development and the creation of a new access to the west of the existing field access, which will be closed up.
- 2.3 The provision of affordable housing and non-compliance with Policies S5, HG4 and HG5 and how this impacts the proposal in terms of this site’s suitability for the siting of residential development is one of the main considerations, paying heed in particular to the impact on the character and appearance of the surrounding area and the requirement for affordable housing within Stillington. Matters relating to design and landscaping, in addition to technical matters such as highway safety and drainage are also important material planning considerations.

ZB24/01340/FUL

14/10/2024



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Northallerton DL6 2UU

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### **3.0 PRELIMINARY MATTERS**

- 3.1 Access to the case file on Public Access can be found here:  
[Planning Documents](#)

#### Planning history

- 3.2 Application site:

18/00490/OUT - Outline application (all matters reserved) for the construction of four detached dwellings (self-build plots) – REFUSED.

17/00606/OUT - Outline application (all matters reserved) for the construction of a detached dwelling – WITHDRAWN.

### **4.0 SITE AND SURROUNDINGS**

- 4.1 The site is located approximately 40m to the west of Stillington, in the open countryside. Stillington is defined as a Service Village within the Hambleton Local Plan. The proposed location of the development is within agricultural land to the east of Stillington. The site consists of a parcel of land formerly used for arable farming and which has been divided from a field to the north. The parcel of land subject to this application measures approximately 0.54ha and is sited to the north of West Lane, which is a classified (C) road. The site is not within Stillington's Conservation Area, which is 40m to the east, ending at Townend Pond.
- 4.2 There are well-established hedgerows (with occasional gaps) to the eastern, western and southern site boundaries, whilst the northern boundary consists of a post-and-rail fence. To the immediate west of the site is residential land, as is the case to the east, whilst the land to the north is agricultural.

### **5.0 DESCRIPTION OF PROPOSAL**

- 5.1 The application relates to the siting of eight dwellings within the above-described parcel of land. The units consist of 1 no. one-bedroomed unit, 4 no. two-bedroomed units, 2 no. three-bedroomed units, 1 no. four-bedroomed unit with two of those units forming part of the affordable housing provision. The proposed tenure for the affordable units has one unit being offered as a discount market property and another for social rent. The proposed units would be constructed in brick and pantile and would include a variety of form and scale in order to give the impression of a converted former farmstead.
- 5.2 The access associated with the site is proposed to be relocated from the east of the site to the west to provide greater visibility to vehicles entering and exiting the site. Landscaping within the site itself and to the minor infill to the site boundaries is also proposed.
- 5.3 The application is submitted with a Design, Access and Planning Statements; Preliminary Ecological Appraisal; Heritage Assessment; Percolation Test; Tree Survey; Biodiversity Net Gain report.

### **6.0 PLANNING POLICY AND GUIDANCE**

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

## Adopted Development Plan

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

## Emerging Development Plan - Material Consideration.

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

## Guidance - Material Consideration

- 6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance

## **7.0 CONSULTATION RESPONSES**

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

### Initial Consultation

#### Consultees

- 7.2 Parish Council – Objects:

- Development should not be built on greenfield land.
- There has been a 30% increase in properties in the village in the last seven years.
- There have been issues regarding utilities and access to the doctor's surgery in the village.
- Resident's safety would be compromised due to lack of footway connection and having to cross a busy road.

- 7.3 Highway Authority – No response.

- 7.4 Environmental Health – No objection.

- 7.5 Yorkshire Water – No objection:

No objection. Have provided conditions and approve of the applicant's intention to drain surface water via soakaway.

- 7.6 MoD RAF - No safeguarding objections.

- 7.7 Foss IDB – Comments and condition provided.

- 7.8 Rural Housing Officer - Comments provided as set out below:

“This is a full planning application and the proposed scheme would be required to provide 30% affordable allocation on 8 homes – this will result in a requirement for 2.4 affordable



homes. Within the current application there are plans for 2 affordable units, therefore we would also require 0.4% commuted sum, secured via a 106 agreement.”

“I have been advised that currently the developer is looking at 1 social rent and one discount market sale. My advice at this stage would be to consider both properties for social rent and to speak to registered providers who already have stock in the area.”

“Both affordable units on the scheme conform to NDSS, however they are considerably smaller than the market homes of the same bed size on the development.”

“Whilst the mix on the affordable housing is not policy compliant, given the number of units on the scheme this would be acceptable.”

“The highest demand is for 1 and 2 beds and we would expect any application to address this need, which this application does.”

“Using secondary data derived from the latest census information, there is an estimated affordable housing need of 8 properties per annum in Stillington itself.”

“We would support the delivery of 2 affordable units and 0.4% commuted sum on this application.”

### Local Representations

#### Initial Consultation:

- 7.9 31 representations have been received. Of these representations 9 are in support and 22 are objecting. A summary of the comments is provided below, however, please see website for full comments.

#### Objections:

- The site is a green belt area.
- There is already fast traffic coming through the village.
- The site will be noisy and dusty through the construction period.
- Development will block out existing views and landscape.
- Since 2016, Stillington has seen an increase of nearly 24% (including the allocation to the south of South Back Lane).
- The proposal will set a precedent for ribbon development.
- The development will open up potential for agricultural land to be developed along North Back Lane.
- The development has the potential to drastically alter the nature and qualities of the village.
- Concern over number of vehicles interacting with busy road close to a corner.
- No footpath between site and village.
- Water, drains and sewerage system in village at capacity.
- Would negatively impact local wildlife.
- The proposal does not represent “infill”.
- The Shippons is outside of the built form.
- The site is part of the countryside.
- The development is high density when viewed against adjacent development.
- A similar application on the site was refused in 2018.
- The proposal would result in an oppressive and overbearing impact on Oakwood House and would impact on privacy in garden.

- The development would be harmful to the character and appearance of the countryside and Conservation Area.
- Potential noise impacts from residents of the proposed dwellings.
- The ecological assessment is for another location.
- Additional housing is not required in the area.
- The development would result in a build-up of traffic on High Street.
- Concerns relating to loss of village character/impact on strip fields.
- Layout allows future development to the north of the site.
- No mention of Historic Environment Search having been undertaken.
- Potential for archaeological remains.

Neutral:

- If approved, there will be a need for a surfaced footpath and street lighting between the site and the village.
- Amendments to the 30mph zone may be required.
- Development will not overly impact the village.
- Affordable homes form part of the development.
- Proposed development is well-contained within the site boundaries.
- Concerns about precedent of agricultural land being used for development.

In support:

- The proposal is in a suitable location.
- It will help to support the village shop.
- Would like to see installation of a footpath between the site and the village.
- Would like materials to be similar to The Shippons [to the west of the site].
- The layout is good.
- Would like to see more housing to attract more families.
- Affordable housing will be beneficial to the community.
- Hedges will be retained and will benefit from additional planting.
- Allows for a wide range of eventual occupants.

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

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

## **9.0 MAIN ISSUES**

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

- Principle of development
- Housing mix
- Impact upon the character and appearance of the site and wider countryside
- Impact upon the amenity of neighbouring properties
- Highway safety
- Drainage
- Green infrastructure

-Heritage matters

- Other matters

## 10.0 ASSESSMENT

### Principle of Development

- 10.1 Stillington is identified within the settlement hierarchy in Policy S3 as a Service Village and so is considered to have the ability to support sustainable development due to the concentration of services and facilities within the village. However, the site is considered not to be adjacent to the built form of the settlement, with Townend Pond forming a break between the main built form of the settlement and the development beyond. This is consistent with Policy S5, where the built form is described as “the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them”, which does not describe the site. Further, S5(c) identifies edge of settlement land which relates more closely to the countryside as falling outside of the built form. It is therefore considered that the site is set within the open countryside.
- 10.2 As a result of the above, the policy cannot be assessed against Policy HG5, which requires windfall development to be set either within a settlement or adjacent to the built form. The assessment of the scheme must therefore be made against Policy HG4.
- 10.3 HG4 relates to housing exceptions, i.e. proposed development found outside of identified settlements and within the open countryside. This includes fully affordable schemes adjacent to the built form of a settlement, homes for rural workers, replacement dwellings and proposals for Paragraph 80 dwellings, subdivision of an existing dwelling, and optimum viable use of a heritage asset. None of the above apply to this scheme and it is therefore considered that the proposal does not benefit from the support of HG4.
- 10.4 As the site is within a rural parish and is for the provision of more than four houses, it is required by Policy HG3 that an affordable housing allocation of 30% is provided within the scheme. As the proposal is for eight dwellings, the amount of affordable housing required within the site is calculated at 2.4 dwellings. The supplied design and access statement identifies two units as affordable, with the tenure being split between a unit for discounted sale and the other for social rent. The remaining .4 will consist of associated contributions.
- 10.5 HG3(c) asks that a mix of affordable tenure is provided, though due to the scale of the proposed development, it is not possible to achieve the mix outlined within the policy. HG3 identifies intermediate housing (such as discount market dwellings) as the lowest priority form of affordable housing, though this is balanced by the inclusion of a unit for social rent, which is given the highest priority. As a result, it is considered that HG3(c) has been met to the extent that can be expected from a scheme of this size.
- 10.6 Current figures taken from housing relating to affordable housing within the Easingwold sub-area reveal that there is a significant requirement for one- and two-bedroomed units, with a shortfall of 112 one-bedroomed units and 68 two-bedroomed units. Further, there has not been an approval including affordable units within Stillington proper since 2014.
- 10.7 The affordable units are set next to each other at the eastern perimeter of the site, contrary to HG3(d), though this may be due to the scale of the proposal and the particular design constraints of the development (the scheme has been designed as a faux-farm conversion). Despite this, the design and materials are to be the same employed within the remainder of the development and so will be externally indistinguishable from other units, in accordance with HG3(e).

- 10.8 It has been relatively uncommon to receive a development of such scale as to require affordable housing within Stillington and so there has been a dearth of affordable units within the settlement, a pattern which has been reflected in the Housing figures for the wider Easingwold sub-area. Despite the positioning of the affordable units towards the periphery of the site, it is considered that the development is providing a policy-compliant mix of tenures in a settlement which has seen no affordable housing for a decade and which helps to address a shortfall in affordable 1-bedroom and 2-bedroom units within the sub-area. As such, it is considered that significant weight can be applied in this instance to the inclusion of affordable housing.

#### Housing Mix

- 10.9 HG2 requires that a housing mix in terms of size, type and tenure is provided, in accordance with the Council's Housing and Economic Needs Assessment (HEDNA), Strategic Housing Market Assessment (SHMA) and successor documents (e.g. the Housing SPD). Four of the proposed dwellings are to be one storey or one-and-a-half storey and therefore can be classified as "bungalows". The proposed mix of three two-bedroomed bungalows and a single three-bedroomed bungalow would, in a broad sense, meet the requirements of the Housing SPD. The SPD does identify a need for bungalows within the former Hambleton district, and at Para. 3.8 specifies that the need for two-bedroomed units is more pronounced, stating that three-bedroomed units will be supported "where they meet an identified need". However, a need for three-bedroomed units has not been identified within the supplied material.
- 10.10 Additionally, support for the development of bungalows is dependent on their scale, with Para. 3.8 identifying a need for "smaller accommodation" and it is also anticipated in the SPD that three-bedroomed units will be "of an appropriate size". The bungalows within the scheme are relatively large, with each unit being in excess of 65% beyond NDSS, which is contrary to the wording of the SPD. However, the two-storey houses within the scheme are largely compliant (being below 40% beyond NDSS), with the only exception being the large unit to the rear of the site (which is 105% beyond NDSS).
- 10.11 Whilst it is acknowledged that the above does not represent an ideal mix in terms of scale, there is an acknowledgement that the proposal includes an appropriate mix in terms of bedrooms, with the majority of the development consisting of two-bedroom and three-bedroom units, consistent with the requirements of the SPD.
- 10.12 The proposed dwellings are all NDSS compliant, in accordance with HG2(g).
- 10.13 As a result of the above, the degree to which the scheme accords with HG2 is not total. For instance, elements such as housing mix and the provision of two-bedroomed bungalows offer compliance with the Housing SPD to a large extent, the impact of which is diminished somewhat by the scale of some of the dwellings, which does not appear to accord exactly with the aims of the SPD. However, the proposed scale of a number of the units is not considered to outweigh the general compliance with the policy and it is considered that, on balance, Policy HG2 is met in this case.

#### Impact on Character and Appearance of the site and wider countryside

- 10.14 The NPPF at Paragraph 135(c) asks that developments are sympathetic to local character, including the surrounding built environment and landscape setting. This is carried through into Policies E1 and E7 of the Local Plan. Policies E1(a) and E1(b) ask that developments

respond positively to their context and draw inspiration from their surroundings and that they respect and contribute positively to local character, identity and distinctiveness.

- 10.15 The proposal is arranged to suggest that the development originated as a farm conversion, with a variation in building form throughout the site to suggest varying former uses for the buildings (barns, worker's cottages, etc.). The relatively simple forms and designs of the units help to support this approach, with the limited and irregular glazing employed within the single-storey units being consistent with those found in barn conversions. The proposed use of brick and pantile would be consistent with the local vernacular and the details of these, in addition to windows, etc. could be controlled via condition.
- 10.16 The faux-farm conversion effect is also expressed in the layout, where Units 5 and 6 create a farmyard-style space. The layout also respects the informal build-line set by Owlwood House to the east, with the southern row of dwellings remaining level with this, whilst also keeping the build line to the north which was set by the barn conversions (The Shippons) to the west. Building in depth to the degree proposed within this application is not generally encouraged, particularly within a strongly linear settlement such as Stillington, however framing the development as a conversion of an agricultural unit helps to respond to the site context. Further, the site has been designed to allow some degree of interplay with The Shippons, bolstering the illusion of being a former agricultural site and allowing the mitigation of any harm cause to the local character through the depth of the development.
- 10.17 Due to its position adjacent to the highway and at a main throughfare into and out of the settlement, the site will be visually prominent. Policy E7 seeks to ensure that a development will "protect and enhance the distinctive character of settlement...by ensuring that the development is appropriate to, and integrates with, the character and townscape of the surrounding area". It has been discussed above the means by which the proposed layout seeks to integrate with its surroundings, and this is further assisted by the use of single-storey development throughout the site and the preservation of a gap within the centre of the site, both of which allows for views "through" the development. Further, the site is relatively loosely developed, with a density (of 15 dwelling per hectare – approx. half the national average of 31) does not necessarily urbanise the edge-of-settlement location.
- 10.18 The landscaping scheme incorporates a reasonable visual buffer to the south in the form of retaining the existing hedge, which will allow for screening of the development, and this will be further improved by the establishment or retention of hedgerow around the entire perimeter of the site. The use of planting will help to soften the visual impact of the development somewhat and the sporadic siting of trees, rather than the planting of a bank, ensures that the planting will not intrude on the open quality of the surrounding landscape.
- 10.19 It is considered that the visual impact on the local area and impact on the character and appearance on the countryside will be managed to a large degree by the proposed layout, form and landscaping. Despite the intrusion into the countryside, the approach to the layout and design of the site, in conjunction with the landscaping and retained visual permeability of the scheme, help to limit the impact on the character and appearance of the area.

- 10.20 The proposed development pays sufficient regard to the character and appearance of Stillington and the open countryside and is considered to be in accordance with Policies S1, S5, E1, E7.

#### Amenity

- 10.21 The site is not within proximity of any building which is considered to be a potential source of noise, odour, light or pollution. Additionally, the proposed units are not considered to be so close to each other as to cause overbearance or issues of privacy and each unit has adequate private amenity space. The site is sufficiently distant from neighbouring properties as to not result in any neighbour amenity concerns.
- 10.22 Comments have expressed a concern relating to the impact on privacy within Owlwood House's garden area. Owlwood House benefits from a large amount of amenity space and the bulk of views from Units 1 and 2 will be oblique, limiting impact on privacy to a large extent. Further, Unit 1 does not have any side windows within the eastern elevation, which can be maintained via condition.
- 10.23 The Environmental Health team do not have any concerns regarding the site and whilst the Council's Scientific Officer has identified several items of note they have no objections to the scheme, provided that any grant of planning permission is adequately conditioned.
- 10.24 The proposal is therefore considered to accord with Policy E2.

#### Highway Safety

- 10.25 There is provision of parking within the proposal. The number of spaces that have been allocated to each dwelling are sufficient to accord with NYC Highways parking standards for properties in a rural area.
- 10.26 The Highways Authority have been consulted but have not yet responded. The adjacent site (which benefits from planning permission reference no.: 22/00959/FUL) that includes an access in a comparable position did result in any concerns from the Highways Authority. As such there are no immediate concerns raised by the Planning Officer. It is though recommended that a condition requiring further details relating to the access, parking, manoeuvring, construction traffic should be imposed on any grant of planning permission. Members will be further updated regarding Highway Authority advice prior to or at the planning committee meeting.
- 10.27 It is considered that the application meets the requirements of Policy IC2.

#### Drainage

- 10.28 A percolation test has been provided as part of the submission which demonstrates the suitability of the site for drainage via soakaway. It is considered that a suitable drainage scheme can be achieved via imposition of a condition. A representation has made reference to flooding within the site, but the site is not within a fluvial flood zone and is not in an area of identified risk from surface water flooding. The proposal would not have an adverse impact on the quality of the water resources or surface/groundwater in the area and is therefore consistent with Policies RM1, RM3 and RM5.

#### Green Infrastructure

- 10.29 The site is within the Howardian Hills Green Corridor. The proposal would have a mild positive impact on existing green infrastructure – the field is currently in agricultural use

and so its ecological value is relatively limited whereas the proposed landscape buffer and planting will provide a small increase in biodiversity and viable habitats. As such, it is consistent with Policy E4.

- 10.30 A BNG assessment was provided with the submission which demonstrated a 10.75% gain in habitat units. An ecological report did not identify any priority habitats or species within the site and provided recommendations which could be used within conditions. Whilst the Preliminary Ecological Assessment is titled “Land North of South Back Lane, Stillington” the map at Fig. 1 clearly shows the proposed site and so it is considered to relate to the application.

Heritage Matters

- 10.31 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The NPPF requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset. Policy E5 also requires the loss or harm to a designated heritage asset to be weighed within the planning balance.
- 10.32 The site is within 40m of Stillington’s Conservation Area, which incorporates Townend Pond to the east. It is considered that the limited, largely single-storey form of the development, the proposed and existing screening and the visual intervention between the two sites provided by Owlwood House mitigates any potential visual impact that the scheme may have on the Conservation Area.
- 10.33 Whilst the proposal incorporates a portion of field which is laid out in a historic strip-field pattern, this will remain mostly legible, with the northern boundary hedge the only obfuscation of the historical land pattern. Historic England’s Aerial Archaeology Mapping Explorer has been consulted to check for identified archaeological details relating to the site but did not return any information which suggests that the site is of any particular archaeological value.
- 10.34 Given the lack of immediate visual impact on the Conservation Area, it is considered that the proposal will have a neutral impact on the heritage asset, resulting in no harm and is therefore compliant with Policies S7 and E5.

Category/Type	Contribution	Amount and Trigger
Affordable Housing	2 dwellings, 1 for social rent 1 for discount market sales	Affordable housing scheme/Transfer Linked to phased occupation
Monitoring	S106 Monitoring	£500 index linked, prior to occupation.

S106 Legal Agreement

- 10.35 Whilst a draft legal agreement has not been submitted it has been agreed with the applicant that the affordable housing provision would be required to be secured via a S106 agreement. The following Heads of Terms are considered to be appropriate for this application:

- 10.36 It is considered that the above S106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

#### Other Matters

- 10.37 There have been references to the quality of the land with regard to its agricultural grading and capacity to support the growing of crops. Government mapping suggests that the field falls within an area of Grade 3 land, though without identifying a sub-grade within the Grade 3 classification. Though Policy S5 suggests that Grade 3a land should not ideally be built upon, this relates to “significant development”. Whilst there is no definition of “significant development” within the Local Plan, it is reasonable to assume that this refers to major applications, which this application is not. As such, there is no conflict with Policy S5 in this regard.

### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 It is considered that the proposed development accords with the requirements of Policies HG2, HG3, S7, E1, E2, E3, E4, E5, E7, IC2, RM3 and RM5. The design, layout and form of the proposal would not harm the character and appearance of the surrounding area and it will be able to accommodate appropriate mitigation of any ecological impacts resulting from the development of the site. Further, no undue harm is considered to be caused to surrounding residents and the potential for negative residential amenity impacts on any future residents in minimal.
- 11.2 However, the proposal does not accord with Policies S1, S3, S5, HG4 or HG5. The proposal is set outside of the built form of an identified settlement and is not considered to be adjacent to a settlement’s built form and so is classified as being in the open countryside. Paragraph 84 of the NPPF states that decision makers should “avoid the development of isolated homes in the countryside” unless a number of exceptions are met, which they are not in this case. It is therefore considered that the site represents unsustainable development in the countryside under the terms set out within the Local Plan and the NPPF.
- 11.3 Despite the above, however, the relationship between the site and Stillington is relatively strong and, whilst this would not normally be sufficient to outweigh non-compliance with the above policies, weight can be given to the provision of affordable housing within the scheme. As Stillington has not benefitted from any additional affordable units since 2014 and, given the significant requirement for one- and two-bedroom units within the Council’s affordable housing demand for the Easingwold sub-area, the weight that can be apportioned to this aspect is significant.
- 11.4 As the scheme would result in the provision of two affordable units and is deemed to be designed in such a manner as to limit wider harms to the character and appearance of the settlement, Conservation Area and wider countryside, it is considered that the planning balance is weighted in favour of support on this occasion.

### **12.0 RECOMMENDATION**

- 12.1 That members be minded to **GRANT** planning permission subject to the applicant entering into a legal agreement under section 106 of the Town and Country Planning Act to secure affordable housing and subject to the imposition of the below listed conditions:



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 drawings numbered 3992/PD/01, 3992/PD/03 Rev. A., 3992/PD/12 Rev. A., 3992/PD/04, 3992/PD/05, 3992/PD/06, 3992/PD/07, 3992/PD/08, 3992/PD/09, 3992/PD/10, 3992/PD/11, 3992/PD/13 received by the Council on 08.07.24 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, S7, E1 and E5.

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

Reason: In the interests of the visual amenity of the area in accordance with Local Plan Policies E1 and E5 and to ensure that the proposal does not contribute to existing drainage issues in accordance with Policy RM3.

4. Prior to development commencing detailed cross sections shall be submitted to and approved in writing by the Local Planning Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

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.

5. There must be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

Reason: In the interests of Highway Safety in accordance with Policy IC2.

6. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited to, arrangements for the following in respect of each phase of the works:

i) details of any temporary construction access to the site including measures for removal following completion of construction works;

- ii) wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- iii) the parking of contractors' vehicles;
- iv) measures to manage the delivery of materials and plant to the site including the routes and timings of deliveries and provision of loading/unloading areas;
- v) areas for storage of plant and materials used in constructing the development clear of the highway;
- vi) details of site working hours;
- vii) a detailed method statement and programme for the building works; and
- viii) 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 accordance with Policies E2 and IC2.

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

- The crossing of the highway verge must be constructed in accordance with the approved drawing reference 3992/PD/03 Rev. A and Standard Detail number E50.
- The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing public highway.

All works must accord with the approved details.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users in accordance with Policy IC2.

8. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the approved drawing reference 3992/PD/03 Rev. A. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in accordance with Local Plan Policy IC2.

9. 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 of the development in accordance with Local Plan Policy IC2.

10. No development shall be commenced until a Phase 2 assessment of the risks posed by contamination, carried out in line with the Environment Agency's Procedures for Land Contamination Risk Management (LCRM), has been submitted to and approved by the local planning authority.

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

unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy E2.

11. Prior to development, a detailed remediation scheme (if required by a Phase 2 assessment) to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 in accordance with Policy E2.

12. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and 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 in accordance with Policy E2.

13. 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 in accordance with Policy E2.

14. There shall be no external lighting installed until full details of the proposed lighting scheme have been submitted to and approved by the Local Planning Authority.

Reason: In the interest of neighbour amenity and to assess the landscape impact of the proposal in accordance with Policies E2 and E7.

15. Prior to development, measures (including protective fencing, etc.) to protect the existing hedges and trees within the site shall be submitted for approval to the Local Planning Authority. The approved scheme shall then be carried out in the approved manner for the duration of the works.

Reason: To ensure the continuity of amenity afforded by existing hedges in accordance with Policies E1 and E7.

16. All existing hedges and trees shall be retained, unless shown on the approved drawings as being removed. Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become seriously diseased or otherwise damaged within five years following completion of the approved development, shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as specified by the Authority.

Reason: To ensure the continuity of amenity afforded by existing hedges in accordance with Policies E1 and E7.

17. No part of the development shall be used after the end of the first planting and seeding seasons following the first occupation or completion of the structure(s), whichever is the sooner, unless a landscaping scheme received and approved by the Local Planning Authority has been carried out in addition to any required Biodiversity Net Gain planting.

Reason: In order to soften the visual appearance of the development and in the interests of enhancing the biodiversity of the site in accordance with Local Plan Policies E1, E3 and E7.

18. 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 the requirements of Policy E3 are met in full.

19. Construction activities which are audible beyond the site boundary, including deliveries, ground works and earth movements, shall be restricted to the following days and times:

- 08:00 – 18:00 Monday to Friday
- 08:00 – 13:00 Saturday

Construction shall not be undertaken on a Sunday or a public holiday.

Reason: To mitigate, and reduce to a minimum, adverse impacts on health and quality of life arising from pollution in accordance with Hambleton Local Plan Policy E2.

20. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order, for the time being in force relating to 'permitted development', no enlargement, improvement or other alteration shall be carried out to the dwelling or building nor shall any structure be erected within or on the boundary of the curtilage of the dwelling hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.

Reason: In order to ensure the character and appearance of the development does not harm that of the Conservation Area and to prevent any development which would impact the amenity of neighbouring properties in accordance with Local Plan Policies S1, S7, E1, E2, E5 and E7.

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

The drainage scheme shall not be implemented until details of the implementation and adoption of the drainage system have been submitted to and approved in writing by the local planning authority.

Reason: In the interest of satisfactory and sustainable drainage, in accordance with Hambleton Local Plan Policies RM1 and RM3.

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

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network) in accordance with Local Plan Policies RM1 and RM3.

23. The details set out in Part 6.3 of the Preliminary Ecological Appraisal (PEA) Survey Report (Written 12.04.24), submitted to the Council on 08.07.24, shall be carried out in accordance with the recommendations of the ecologist.

Reason: In order to limit impact on wildlife and habitats within the site in accordance with Local Plan Policies E3 and E4.

**Target Determination Date:** 30<sup>th</sup> September 2024.

**Case Officer:** Mr Connor Harrison, Connor.harrison@northyorks.gov.uk

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**North Yorkshire Council**  
**Community Development Services**  
**Thirsk and Malton Area Constituency Planning Committee**  
**24<sup>th</sup> October 2024**  
**ZB24/01032/FUL - Proposed Change of Use of Existing Tourism**  
**Accommodation to Dwellinghouse**  
**At Oakleigh Cottage, Oakleigh, Alne Station, York, North Yorkshire**  
**On Behalf of Mr and Mrs L Butterworth**  
**Report of the Assistant Director Planning – Community Development**  
**Service**

**1.0 PURPOSE OF THE REPORT**

- 1.1 To determine an application for full planning permission for the change of use of existing tourist accommodation to form a dwellinghouse.
- 1.2 This application requested to be determined by the Planning Committee following a referral by Cllr Knapton to allow the Planning Committee to consider the proposal against the requirements of Policy S5 of the Hambleton Local Plan.

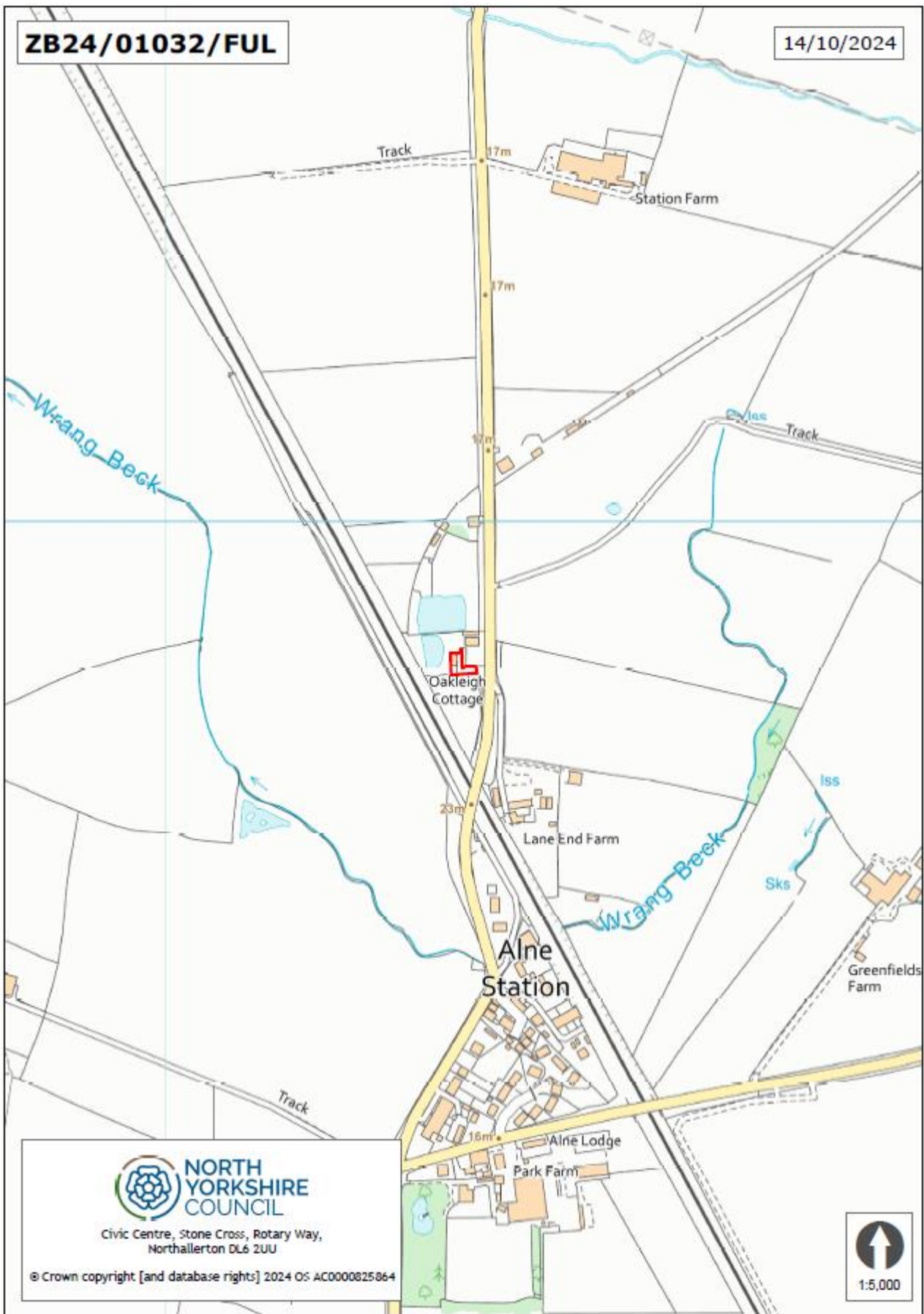
**2.0 SUMMARY**

**RECOMMENDATION:**

- 2.1 That planning permission be **REFUSED** for the reasons set out in Section 12 of this report.
- 2.2 The proposed development consists of an existing holiday let and associated land which is itself associated with the dwelling of Oakleigh, set to the north-east. The application site is bound to the west by the East Coast Mainline and, beyond this is agricultural land. Access to the site is gained via a shared access with Oakleigh. The site is residential in character due to being set within the curtilage associated with Oakleigh.
- 2.3 The holiday let which is the subject of the application is a brick-built three bedroomed unit with associated parking space. The proposal introduces a formal amenity space (approx. 158m<sup>2</sup>) to be associated with the building.
- 2.4 Consideration of compliance with Policy S5 in terms of the ability of the site to meet S5(f) and S5(g) is the main issue to be considered. Technical matters such as the impact of the East Coast Mainline on residential amenity are also of importance.

ZB24/01032/FUL

14/10/2024



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

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### **3.0 PRELIMINARY MATTERS**

3.1 Access to the case file on Public Access can be found here:  
[Planning Documents](#)

#### Planning History

3.2 Application site:

15/00457/FUL - Proposed conversion of double garage into holiday accommodation – PERMITTED.

19/01347/FUL - Proposed use of existing tourist accommodation as a dwelling – REFUSED.

20/00002/REFUSE (Appeal No.: APP/G2713/W/20/3245107) – Appeal dismissed.

### **4.0 SITE AND SURROUNDINGS**

4.1 The application site consists of a holiday let with Oakleigh, a dwelling to the north of Alne Junction. The site is within residential land associated with Oakleigh, which itself abuts the East Coast Mainline approximately 40m to the west of the holiday let. To the east is the public highway. Beyond the highway is open countryside. The boundary of the wider area associated with Oakleigh is lined by well-established planting, with some planting also present within the boundary.

4.2 The site is approx. 300m to the north of Alne Junction and approx. 1.1km to the north of Alne proper.

### **5.0 DESCRIPTION OF PROPOSAL**

5.1 The application relates to the change of use of the holiday let to form a single dwellinghouse.

5.2 The application is submitted with a Planning and Design Statement.

### **6.0 PLANNING POLICY AND GUIDANCE**

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

#### Adopted Development Plan

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

#### Emerging Development Plan - Material Consideration.

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

#### Guidance - Material Consideration

6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance

## **7.0 CONSULTATION RESPONSES**

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

### Initial Consultation

#### Consultees

- 7.2 Parish Council – No objection.
- 7.3 Highway Authority – No objection.
- 7.4 Environmental Health – No objection with appropriate conditions:

“I refer to the Enzygo Noise impact assessment reference SHF.900.001.NO.R.003 dated May 2024 and I can advise that I can accept the reports noise assessment... However, I consider that the area of external amenity that is protected from exposure to noise is very limited and so greater mitigation using an acoustic barrier as identified in 5.2.8 and 5.2.9 of the report...is required”.

Conditions relating to the provision of an acoustic barrier provided.

- 7.5 Yorkshire Water – No response.
- 7.6 Network Rail - No response.
- 7.7 Contaminated Land – No objection - conditions provided.
- 7.8 MoD RAF – No objection.
- 7.9 Kyle and Upper Ouse IDB – No response.

### **Local Representations**

#### Initial Consultation:

7.10 No letters of support or objection have been received.

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

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

## **9.0 MAIN ISSUES**

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

- Principle of development.
- Impact upon the character and appearance of the site and locality.
- Impact upon the amenity of future residents.

- Impact on the local highways system.

## 10.0 ASSESSMENT

### Principle of Development

- 10.1 National and local policies aim to prevent development where it is deemed to be unsustainable. With regard to dwellings, sustainable development is usually determined to be development either within or directly adjacent to the built form of a settlement (governed by Policy HG5) or, where this is not the case, to be able to fall within one of the exceptions listed within Policy HG4. Neither of the above scenarios are applicable in this instance and so it is considered that the proposal would not benefit from the support of these two policies.
- 10.2 Due to the distance between the site and the built form of any identified settlement it has been determined in a previous decision (planning reference no.:19/01346/FUL) on the same site for the same proposal that the siting of a dwelling within the proposed area is not sustainable. This assessment was considered by the Planning Inspectorate at appeal, where the Inspector identified a likely preponderance of car use by any inhabitants of a dwelling, due largely to the limited public transport options within the immediate area. As a result, it was concluded that the site was too distant from local services and facilities to represent a sustainable location and the appeal was dismissed.
- 10.3 Despite developments within the NPPF and the adoption of a new Local Plan in the interim period, the approach described above remains the same and “isolated” dwellings within the countryside are discouraged via policy. Policy S5, however, allows for the conversion of a rural building where it meets the criteria set out in S5(f) and S5(g), shown below:
- “SG5(f) - The building is:
- i) The building is redundant or disused;
  - ii) Of permanent and substantial construction;
  - iii) Not in such a state of dereliction or disrepair that significant reconstruction would be required; and
  - iv) Structurally capable of being converted for the proposed use; and
- SG5(g) – The proposal:
- (i) Would enhance the immediate setting; and
  - (ii) Any extension or alteration would not adversely affect the form, scale, massing or proportion of the building.”
- 10.4 The building is modern and well-kept and, as a result, it is considered that S5(f)(ii), (iii) and (iv) are met. Further, due to the very limited external works that are being proposed, it is considered that the scheme is also compliant with S5(g)(ii).
- 10.5 The key conflicts and discussions to be had which relate to the policy are to be found in S5(f)(i) and S5(g)(i), in addition to the idea of the ability of a holiday let to be “converted” to a dwelling.
- 10.6 S5(f)(i) asks that a building which is being converted through the policy be shown to be either redundant or disused. The holiday let was demonstrated to be unviable in 2019, however, the period of operation (2015-2019) was not considered to an appropriate length of time to give a complete picture of the viability of the business by the Inspector. The Planning Statement states that, since this period, the holiday let business has remained

unviable but has not given the range of evidence required to confirm this (figures relating to the operation of the site, marketing details, etc.). It has also been claimed that the presence of the holiday let is making the wider property (Oakleigh) difficult to sell as people are unwilling to take on a holiday let.

- 10.7 As a result, it is considered that there is a likelihood of the unit remaining redundant or disused, but that the Council has insufficient information dating from 2019 to the present day that could be used to confirm this. Further, the Council has insufficient information to determine whether this is a true representation of the circumstances surrounding the business (i.e. that its failure is down to general disinterest from the wider public) or whether it is a fault of marketing (either a lack of or, alternatively, requirements which do not tally with the existing market, such as high booking fees, required lengths of stay).
- 10.8 It is therefore considered that the proposal does not meet the requirements of S5(f)(i).
- 10.9 S5(g)(i) requires that a conversion of the type proposed would enhance the immediate setting. Discussions have been undertaken with the applicant and agent to determine what form this would take within the site as the site is currently set within a well-maintained and attractive residential space and so opportunities for improvement are limited.
- 10.10 A number of solutions were proposed, such as additional planting within adjacent land, to provide additional resources for wildlife and to provide a bonus to biodiversity within the area. Whilst this sort of planting would be encouraged, it is considered that it would not provide the type of improvement necessary for compliance with the policy – the wording describes the “immediate setting”, i.e. the property and its immediate surroundings (the proposed curtilage), with any planting taking place outside of this area.
- 10.11 It is further considered that the provision of the upkeep of a property which would be gained through conversion would not an enhancement, as appropriate maintenance of a property would be an expectation. It would not be appropriate for a building to fall into disrepair in order that a future application could provide an enhancement where previously there was no enhancement to be found.
- 10.12 Due to the limited scope offered by the already attractive and well-maintained site it is considered that the scheme would not provide an enhancement to the immediate setting of the building and therefore fails the test in S5(g)(i).
- 10.13 Further to the above, there is consideration to be had as to whether “conversion” applies to holiday lets. Due to the way in which the use classes are set out, the holiday let is technically already within the same use – C3 – as a standard dwellinghouse. Indeed, the only barrier to the use of the property as a dwelling is the existence of Condition 3 (Occupation) which was imposed on planning permission 15/00457/FUL – otherwise, the structure is, for all intents and purposes, a dwelling. It is argued that the Rural Buildings section of S5 does not therefore apply to holiday lets, given that the extent of conversion is minimal.
- 10.14 As discussed above, it is considered that the proposed scheme does not meet the requirements of Policy S5.

#### Character and Appearance

- 10.15 It is considered that the scheme would not unacceptably impact the character and appearance of the wider area and that the scale, form and appearance of the site is appropriate to its use and location. In this regard, the proposal is therefore in accordance with Policies S1, S5, E1 and E7.

## Residential Amenity

- 10.16 The Environmental Health Service have been consulted and have stated that conditions relating to acoustic fencing adjacent to the railway line to the west should be imposed on any planning permission granted. Whilst the proximity to the East Coast Mainline was cited as a reason for refusal in the 2019 application and was then upheld at appeal, the applicant has since addressed a number of issues relating to amenity impacts arising from noise and vibration. These works include the fitting of new windows and associated works.
- 10.17 As a result, the Environmental Health team have found that residential amenity within the proposed dwelling would not suffer unduly from the proximity to the railway line and that noise and vibration can be adequately managed through the measures already put in place by the applicant. The distance between the property and Oakleigh is such that there would be limited scope for overlooking and so this is not considered to be a concern.
- 10.18 It is considered that the imposition of the conditions set out by the Environmental Health service would allow the scheme to comply with Policies S1 and E2.

## Highway Safety

- 10.19 The proposed use would utilise a pre-existing access. The Highways Authority have been consulted and have not objected to the scheme.
- 10.20 It is considered that the proposal does not raise any highway safety concerns and is therefore compliant with Policy IC2.

## 11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The proposal complies with Local Plan Policies E1, E2 and IC2 and the sections of the NPPF which relate to those policies. It also partially complies with Policy S5, where it meets policy point (f)(ii), (f)(iii), (f)(iv), and (g)(ii).
- 11.2 It does not accord, however, with S5(f)(i) or (g)(i). This is due to a lack of information relating to the viability of the business from the dates 2019-2024 and the inability to provide an enhancement to the immediate area.
- 11.3 The Hambleton Local Plan states that development in the countryside will only be supported where it is in accordance with national and local planning policies, as development outside the built form of settlements, with very limited access to services and facilities, is considered to be unsustainable. This was the conclusion reached by the Council in 2019 and by the Inspectorate in 2020 and it is considered that the policy context has not altered since that period in this regard.
- 11.4 In addition, it is held that the proposal does not represent a “conversion” of the existing building, due to the use class associated with holiday lets being the same as those of a dwelling, and so the development does not benefit from the Rural Buildings section of S5.

## 12.0 RECOMMENDATION

- 12.1 That permission be **REFUSED** for the following reasons:
1. The unviability of the existing business use (as a holiday let) has not been adequately demonstrated for the previous five-year period covering 2019-2024 and so it is not possible to determine whether the current use of the structure is regarded as redundant. As a result, Policy S5(f)(i) is not met.

2. No enhancement to the immediate setting of the proposed site has been provided as part of the scheme. As a result, Policy S5(g)(i) is not met.
3. It is considered that the proposal does not represent “conversion” of a property, being within the same use class as the proposed use. It is considered that the Rural Buildings section of S5 does not therefore apply to holiday lets, given that the extent of conversion is minimal. As a result, Policy S5 is not met.

**Target Determination Date:** 25<sup>th</sup> of July 2024

**Case Officer:** Mr Connor Harrison  
Connor.harrison@northyorks.gov.uk

## North Yorkshire Council

### Community Development Services Thirsk and Malton Area Constituency Committee

24 October 2024

**ZB23/02394/OUT - Outline application for the erection of 20 no. dwellings (with all matters reserved except access, landscaping and layout) [Use Class C3] including demolition of existing barn and associated infrastructure**

**at land to the south of Prospect Cottages, Husthwaite, North Yorkshire**

**On behalf of C. Nicholson, R, A, C, J Taylor**

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

#### **1.0 PURPOSE OF THE REPORT**

- 1.1 To determine an outline planning application for 20 dwellings on land to the south of Prospect Cottages, Husthwaite.
- 1.2 The application is considered appropriate to be determined by the Planning Committee due to the proposal raising significant planning issues, level of interest in the proposal and the complex planning matters involved, as considered by the Director of Community Development,

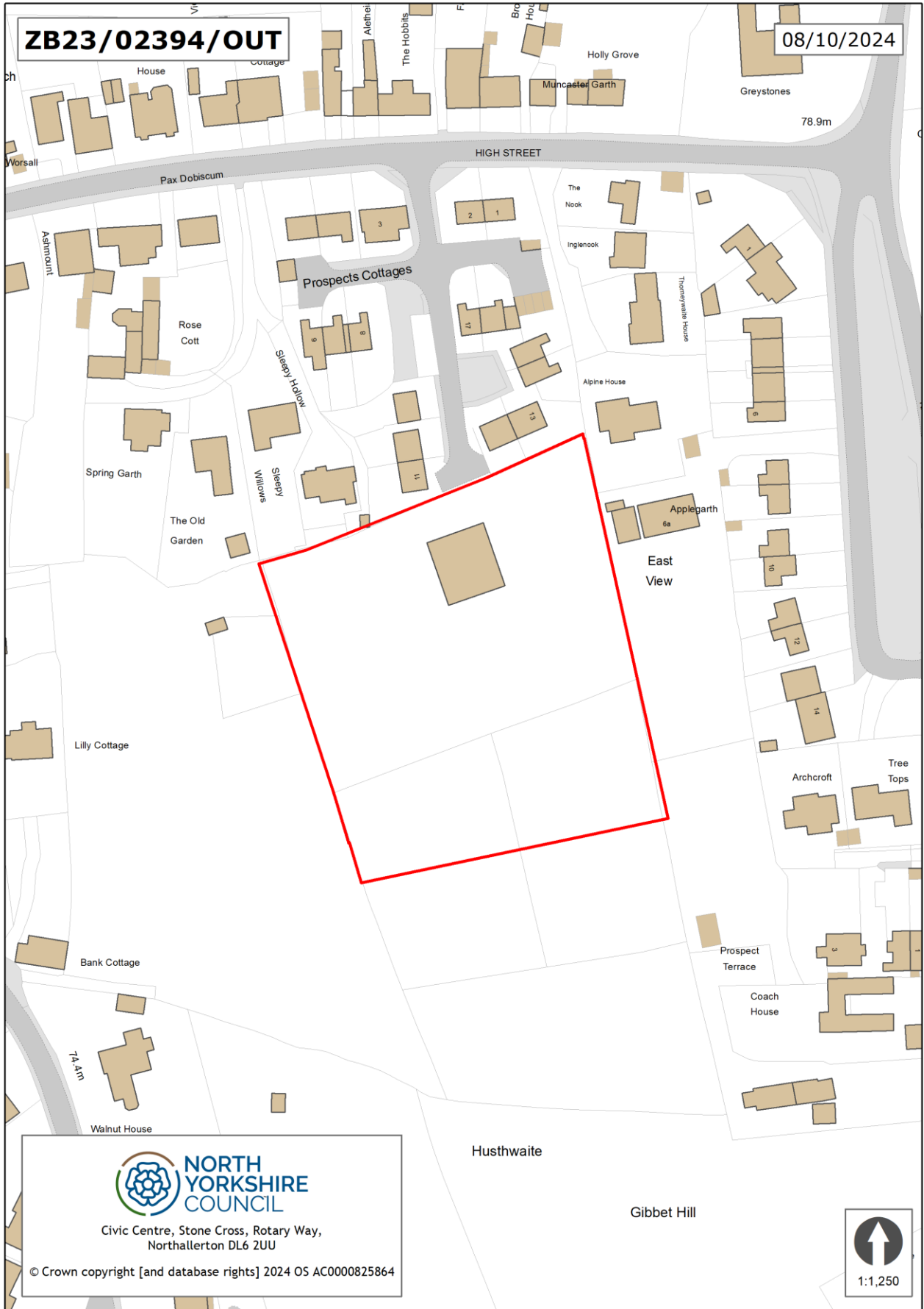
#### **2.0 SUMMARY**

**RECOMMENDATION:** That planning permission be **REFUSED**

- 2.1 The application is in outline for demolition of the existing barn and construction of 20 dwellings. The proposal includes the provision of 7 affordable houses (35%), public open space and provision for a net gain for biodiversity. The matters for consideration at this stage are access, landscaping and layout. Access is proposed to be taken through Prospect Cottages to the north.
- 2.2 The application site is located to the eastern side of the settlement of Husthwaite, west of East View and south of the High Street. The site is accessed via Prospect Cottages, a 1970s development. The site is currently in agricultural use with an agricultural building sited at the northern end of the site. To the north and east of the site there is residential development. To the west is a further open field with The Nookin beyond and to the south further agricultural fields. The site is bordered to the east and west by mature hedgerow. As the site splits an existing field there is currently no southern boundary demarcation. The site is divided by post and tape style electric fencing. The land rises up from north to south and west to east.
- 2.3 The application site was allocated for housing development in the previous Local Development Framework. Outline planning permission for 20 dwellings was granted in early 2015. The Reserved Matters were approved in 2019. In February 2022 the new Local Plan was adopted. This site was not carried forward as an allocation and the previously granted permissions have now expired.

ZB23/02394/OUT

08/10/2024



 **NORTH YORKSHIRE COUNCIL**  
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Northallerton DL6 2UU  
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### **3.0 PRELIMINARY MATTERS**

3.1 Access to the case file on Public Access can be found here:- [Planning Documents](#)

3.2 There are 7 relevant planning applications for this application which are detailed below.

23/00319/OUT - Outline application with some matters reserved for 4no. dwellings – REFUSED on 06.04.2023.

22/01469/OUT - Outline application for 22 dwellings with all matters reserved except access. - REFUSED on 24.11.2022, DISMISSED at appeal on 17.08.2023.

18/02100/REM - Application for approval of reserved matters (access, appearance, landscaping, layout & scale) following outline approval 14/02294/OUT for the development of 20 houses – GRANTED on 08.04.2019.

14/02294/OUT - Outline application for development of 20no dwellinghouses – GRANTED on 05.10.2015.

79/1648/OUT - Outline Application for the Construction of an Agricultural Engineering Workshop and Two Dwellings – REFUSED on 13.11.1979.

79/1246/OUT - Outline Application for the Construction of a Bulk Potato Storage Building – GRANTED on 28.06.1979.

79/1636/OUT - Outline Application for the Construction Of 2 Detached Dwellinghouses with Domestic Double Garages – REFUSED on 26.07.1979.

### **4.0 SITE AND SURROUNDINGS**

4.1 The application site measures 8,441sqm and is located to the eastern side of the settlement of Hushwaite, west of East View and south of the High Street. The site is accessed via Prospect Cottages, a 1970s development. The site is currently in agricultural use with an agricultural building sited at the northern end of the site. To the north and east of the site there is residential development. To the west is a further open field with The Nookin beyond and to the south further agricultural fields. The site is bordered to the east and west by mature hedgerow. As the site splits an existing field there is currently no southern boundary demarcation. The site is divided by post and tape style electric fencing. The land rises up from north to south and west to east.

4.2 Hushwaite is a small rural village with a long linear form and a historic core centred on the 12th century Church of St Nicholas. To the south of the church is a small village green and an additional important village street, The Nookin. Hushwaite Conservation Area boundary tightly relates to the historic limits of the village and includes later 19th century development along The Nookin. The application site does not fall within the Conservation Area which borders the site at the northwestern corner. The 1970s development at Prospect Cottages is also excluded from the Conservation Area.

### **5.0 DESCRIPTION OF PROPOSAL**

5.1 This application seeks outline planning permission for 20 dwellings with access, landscaping and layout sought to be considered. Two of the units are proposed as self-build and seven of the dwellings are proposed as affordable which equates to 35%.

- 5.2 The proposed layout shows the access road joining from Prospect Cottages to the north. To the west of the access road is an area for public open space and the Local Equipped Area for Play (LEAP). The proposed dwellings are set initially in a linear pattern either side of the north to south access road. Four further dwellings are sited facing the western internal shared driveway. To the south of the site a green buffer is proposed. Parking for each dwelling is shown, as well as visitor parking. Each unit is also shown with an outdoor amenity space. The layout plan shows a housing mix table which forms part of the justification for the development. Similarly, landscaping is being considered as this also forms part of the justification/mitigation for the development.
- 5.3 The site was previously allocated in the LDF under EH5. Although outline planning permission was gained in 2014 and reserved matters in 2018 the permission was not implemented and has now expired. The allocation was not carried forward into the new Local Plan which was adopted in February 2022 and does not form part of the current Housing Land Supply figures. An application for 22 dwellings was refused in November 2022 and was Dismissed by the Planning Inspectorate on appeal in August 2023.

## **6.0 PLANNING POLICY AND GUIDANCE**

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

### Adopted Development Plan

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

### Emerging Development Plan – Material Consideration

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

### Guidance - Material Considerations

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

## **7.0 CONSULTATION RESPONSES**

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 **Parish Council:** Husthwaite Parish Council wish to see the application refused and raise the following matters:
- The Inspector dismissed the previous application based on the location of the development site and not the layout as contended by the applicant. The reduction in the number of dwellings and enlargement of the green space does not address this.
  - There is insufficient parking for the number of dwellings on Prospect Cottages (6 spaces for 14 dwellings) forcing residents to park on the road. This will impact

access for the new development. Additional parking should be provided to ensure this is addressed.

- Impact on peak time traffic
- This development will put a strain on local services and the social cohesion of the village. There is no shop, post office, doctors, local employment or reliable transport connections.
- There are undergrounds springs and watercourses in this area.
- Would request a construction management plan be provided if permission is granted to control site access, on site compounds, parking, materials storage, HGV routes, hours of operation and discharge of surface water.

**7.3 Conservation Officer:** The Conservation Officers comments are summarised as follows:

The implications of development affecting the setting of heritage assets is to be considered on a case-by-case basis, Historic England 2017. Huthwaite is a small rural village its character is derived from a linear setting running on an east to west axis. The historic core is centred on the 12th century Church of St Nicholas which is Grade II\* listed. The boundary of the Conservation Area relates to the historic limits of the village and includes later 19th century development along The Nookin.

Although the village has succumbed to areas of later 20th century development and selective infill, the historic limit of the village is relatively unchanged. There continues to be a clear relationship with the adjacent open land. This places and emphasis on the relationship between the historic buildings, adjacent fields and wider rural landscape which collectively adds to the setting and contributes greatly to the significance of the conservation area.

The infill development associated with Prospect Cottages cul de sac is an anomaly within the established linear pattern of the settlement and although this is recognised within the village this does not mean to say it should be replicated or indeed the cul de sac extended into an open field which sits quietly within the village. The continuation of this cul de sac would harm the character of the village as the open land is considered to contribute positively to the conservation area. The view from Prospect Cottages identifies the established rural character and therefore further supports the understanding of the linear form of the village via the absence of modern development.

A planning application was dismissed by the Planning Inspectorate on the 17 August 2023 for the harm which would be afforded to the conservation area and conflict with LP Policy HG5. As the proposals were deemed to have a detrimental impact on the character and appearance of a village which in turn had a loss of countryside that made a significant contribution to the character or setting of that part of the village. The Inspector also considered the proposal would create a negative impact on the contribution which the site made to the significance of the conservation area. The scale of harm was given less than substantial.

Although there has been a shift in the opportunities created for others by identifying public benefits it is considered that the principle of harm remains. Moreover, it was further considered that the proposal does not comply with the requirements of the NPPF in terms of conserving heritage assets in a manner appropriate to their significance, ensuring that new developments add to the overall quality of an area, and are sympathetic to local character.

To conclude the proposed development would result in less than substantial harm to the setting of the Hushwaite Conservation Area.

- 7.4 **Environmental Health Officer:** No objection subject to imposition of a condition relating to construction management.
- 7.5 **Environmental Health Officer (Land Contamination):** The site is located in a medium risk area for radon. This can be reduced to low risk through the incorporation of protective measures in accordance with BRE 211 Radon: Guidance on protective measures for new buildings. A condition is recommended to cover any unexpected contamination found during construction.
- 7.6 **Heritage Services:** The Councils Principal Archaeologist broadly agrees with the submitted report. The overall conclusion is that the site has a generally low archaeological potential with the majority of features identified being medieval or post-medieval furrow and drains. During the compilation of the Heritage Statement the consultants identified a small circular mound, surrounded by a ditch in the north-west corner of the site. The Councils Archaeologist agrees that it is more likely that the feature is a lunge ring or similar for the exercising of horses but that the feature should be subject of further archaeological recording secured by condition.
- 7.7 **Historic England:** No Comments, refers to the advice of the Local Conservation Officer.
- 7.8 **Highways Authority:** No objections subject to imposition of conditions relating to surface water, detailed plans for roads and footways, minimum construction standards for use, details of access turning and parking and a Construction Management Plan for small sites.
- 7.9 **Housing Officer:** In summary the application provides one additional affordable house above the requirement of the Local Plan. The tenure of the proposed affordable units is acceptable. Additional information regarding space standards, transfer prices and energy efficiency is provided. On further consultation local need data collected in 2021 was provided indicating that 3 units of affordable housing are required in Hushwaite.
- 7.10 **RAF Ministry of Defence, Defence Infrastructure Organisation Safeguarding Team:** No objection.
- 7.11 **Yorkshire Water:** No objections subject to condition requiring that the development is carried out in accordance with the submitted drainage strategy.

#### Local Representations

- 7.12 38 representations have been received from 34 members of the public. Of these representations 14 are in support and 24 (from 20 members of the public) are objecting. A summary of the comments is provided below, however, please see website for full comments.
- 7.13 Support:
- Would like to move to/back to the village
  - Would regenerate the village, support local services and provide affordable housing, self build, and green space
  - House prices are high in the area
  - Opportunity for village to grow in a sustainable way
  - Previously allocated site
  - Drainage solutions are available
  - Removes eyesore barn

#### 7.14 Objections:

- Replicates the previous application which was refused and dismissed at appeal. The reasons for refusal (impact on the Conservation Area, character, setting, form and linear layout of the village) are still valid
- The changes to the proposal are cosmetic and do not address the fundamental problems of too large development in the wrong place
- Brownfield sites should be prioritised
- Husthwaite has limited services and public transport
- Increased traffic
- High Street is clogged with parked vehicles
- Impact on wildlife
- The village is in the process of drawing up a neighbourhood plan
- Out of scale with the village
- The application site is crossed by underground watercourses and springs and flooding is prevalent on neighbouring land. The drainage report is a desktop study only and does not address the impact of disturbing the springs
- The construction of one new dwelling near this site resulted in flooding to neighbouring properties
- The Council has an almost 10-year land supply
- Would cause irreversible damage to the village and Conservation Area
- An embargo should be enforced against future applications.
- Loss of hedgerow and trees
- Provide very concise comments
- Broadacres provide affordable houses in the area for both rent and purchase
- A 25+ houses have been built in the village in the last 10 years, 11 in the last 3 years alone
- Will result in nitrate pollution
- Scheme not required as funding has been granted for 700 new homes on brownfield sites across York and North Yorkshire.
- Are there sufficient facilities in the village for children of every age
- Existing sewerage system is at capacity
- Desire for profit needs to be balanced against the need to protect heritage
- The alterations to the layout to make the view up the hill more pleasing will not achieve the aim
- Emergency vehicles and bin collections will struggle to access the site
- This is the first phase of wider development
- No evidence that the proposal is based on any element of local need or demand

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

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

### **9.0 MAIN ISSUES**

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

- Principle of development
- Affordable housing and housing mix
- Heritage and impact on the character of the area
- Amenity
- Drainage and Flood Risk
- Highways safety

- Biodiversity

## 10.0 ASSESSMENT

### Principle of Development

- 10.1 The application site was allocated for housing development in the previous Local Development Framework. Outline permission for 20 dwellings was granted in early 2015. The Reserved Matters were approved in 2019. In February 2022 the new Local Hambleton Plan was adopted. This site was not carried forward as an allocation and the previously granted permissions which were never implemented have now expired.
- 10.2 The LDF 2010 allocations were based on evidence gathered some 17 years ago between 2005 and 2009 when the final document was submitted for examination. This was a completely different policy environment, pre National Planning Policy Framework and later in the period when the District was working hard to maintain an adequate housing supply. The principle of development at this site must therefore rely on the policies of the new Local Plan and no weight can be given to the previous LDF allocation and permissions. The site does not currently contribute to the Councils Housing Lands supply which is currently in excess of 8 years.
- 10.3 The purpose of Local Plan S1 is to set out the central role that sustainable development plays in meeting the growth requirements for Hambleton, and to set out the ways and the expectations in which the Council will seek to achieve sustainable development.
- 10.4 Policy S2 sets out the Council's housing requirement and it identifies that the housing figures are based on existing commitments and sites allocated for development in this local plan. Housing development that comes forward during the plan period will be an important additional supply of homes and will be supported as set out in policies including HG5 : Windfall Housing Development.
- 10.5 Policy S3 sets out the settlement hierarchy. Husthwaite is a service village within the Easingwold sub area. The position of a settlement within the hierarchy is based on the range and type of services and facilities available within the settlement or in its immediate vicinity and the availability of public transport services. Development will be supported in settlements in the hierarchy that is proportionate to the size of the settlement and it's level in the hierarchy.
- 10.6 Policy S5 states that the built form is defined as the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them. Land outside of this built form is considered to be open countryside. In this case the site is not considered to be within the built form of the settlement. It can, however, be considered to be adjacent to it.
- 10.7 Policy HG5 states that adjacent to the built form of a defined village housing development will be supported where a number of criteria are met.
- 10.8 Criterion a. requires that a sequential approach to development be taken which prioritises previously developed land over undeveloped land. The applicant has not identified any previously developed sites within the village. The Council is also not aware of any relevant sites and therefore it is accepted that criterion a., is satisfied. The application site itself does feature one building, however, this is considered to be agricultural and therefore does not meet the definition of previously developed.

### Affordable Housing and Mix

- 10.9 Criterion b. requires a housing mix in accordance with the Councils up to date evidence. Local Plan Policy HG3 also states that the council will seek provision of 30% affordable

dwelling on all housing developments. The application is in outline, however, as the proposal includes a layout drawing which provides a mix schedule which is also discussed in the submitted Public Benefits Statement this will be considered as part of the proposal.

- 10.10 The proposed mix is shown in the table below against the target from the Housing SPD. The table shows that seven units of affordable housing are proposed. The requirement for affordable housing for this development would be 30% which equates to six dwellings. The proposal therefore provides one additional unit above the Local Plan requirement. This equates to a provision of 35%. In addition to this the proposal includes two plots for self-build units. These are marked as 3-bedroom houses at plots 7 and 8. These would need to be secured by legal agreement if given weight in the planning balance.
- 10.11 The table shows an over provision of 4+bedroom market dwellings and an under provision of 1 bedroom market dwellings. Given the numbers involved the number of 2 and 3-bedroom properties for market sale is broadly in line with the target. Similarly, although the proposed mix for affordable housing does not exactly meet the target percentages outlined in the Housing SPD the Housing Officer has confirmed that more 1 and 2 bedroomed dwellings are needed in the Easingwold Hinterland than 3+ bedroomed dwellings. Whilst ideally one 3 bedroomed dwelling could have been provided the proposed mix is considered to be acceptable.

House Size	Market No of Units	Market Housing Proposed	Market Housing Target	Affordable No of Units	Affordable Housing Proposed	Affordable Housing Target
1 bedroom	0	0	5-10%	2	28%	20-25%
2 bedrooms	6	46%	40-45%	5	71%	50-60%
3 bedrooms	5	38%%	40-45%	0	0	10-20%
4+ bedrooms	2	15%	0-10%	0	0	0-5%

Heritage and impact on the character of the area

- 10.12 Criterion c. requires that development, both individually and cumulatively, be commensurate with the size, scale, role and function of the settlement. Hustwaite is defined as a Service Village within Local Plan Policy S3 which provides the strategy for the spatial distribution of growth for the area. The site lies adjacent to the built form of the village.
- 10.13 In the previous application the inspector considered that: “Neither LP policy S3, nor policy HG5 provide any indication of the number of new dwellings anticipated to be delivered within or adjacent to each Service or Secondary Village. Therefore, a judgement is required in each case, based on the size and character of the village affected, along with the concentration of services therein. Whilst I have carefully considered the Council’s concerns with regards to the scale of the proposal, they do not identify any direct impacts on the infrastructure of the village or the available level of local services and facilities therein, and no evidence has been provided to this effect. Whilst I note some concerns in representations from the public, based on the evidence before me, I have no reason to conclude that the proposed development represents a level of growth that would not be commensurate to the size, scale, role and function of the village. To conclude on this first main issue, the delivery of 22 dwellings within a village of this size would not materially harm the size, scale, role and function of the settlement. As such, the proposal would not conflict with Policy HG5 criteria c)”.

- 10.14 Criteria d. and e. relate to layout, historic form and character of the settlement and surrounding countryside. Local Plan Policy E1: Design states that all development should be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and helping to create a strong sense of place. Policy E7: Hambleton's Landscapes states that the Council will protect and enhance the distinctive character and townscapes of settlements in the district. This will be achieved by ensuring that development is appropriate to, and integrates with, the character and townscape of the surrounding area.
- 10.15 As this section also relates to Heritage matters the relevant additional policy is set out below.
- 10.16 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving the Listed Building(s) or its setting or any features of special architectural or historic interest which it possesses.
- 10.17 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to have special regard to the desirability of preserving or enhancing the character or appearance of the Hushwaite Conservation Area.
- 10.18 Paragraph 201 of the National Planning Policy Framework states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 10.19 Paragraph 203 of the National Planning Policy Framework states that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 10.20 Paragraph 205 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.21 Paragraph 206 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 10.22 Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.23 Local Plan Policy E5 states that where a heritage asset is identified, a proposal will be required to assess the potential for adverse impacts on the significance of the historic environment. Where investigations show that impacts on heritage assets or their settings, whether designated or not, are possible, a heritage statement will be required. The heritage



statement must be proportionate to the asset's importance and contain sufficient detail to understand the potential impact of the proposal on their significance.

- 10.24 A proposal will only be supported where it ensures that those elements that have been identified as making a positive contribution to the special architectural or historic interest of a conservation area and its setting are preserved and, where appropriate, enhanced, having regard to settlement character assessments and conservation area appraisals;
- 10.25 Any harm to, or loss of, the significance of a designated heritage asset will require clear and convincing justification. Less than substantial harm to the significance of a designated heritage asset will only be supported where the harm is outweighed by the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.26 Husthwaite is a small rural village with a typical North Yorkshire long linear form running on an east to west axis. The historic core is centred on the 12th century Church of St Nicholas. To the south of the church is a small village green and an additional important village street, the Nookin. Husthwaite Conservation Area boundary tightly relates to the historic limits of the village and includes later 19th century development along The Nookin.
- 10.27 The pattern of medieval burgage plots, as articulated by the building lines running back from the street frontages, informed later 17-19th century village development, and remains clearly visible in the character and appearance of the village today. The legibility and demarcation of these individual burgage plots make an important contribution to the significance of the conservation area.
- 10.28 Despite areas of later 20th century development and selective infill, the historic limit of the village is relatively unchanged. Husthwaite continues to enjoy a close relationship with the adjacent open arable and pastoral fields backing onto the burgage plots. This relationship between the historic buildings, adjacent fields and wider rural landscape setting contributes greatly to the significance of the conservation area.
- 10.29 Later in-depth development such as the cul-de-sac at Prospect Cottages fits uneasily into the established linear pattern of the settlement and should not be repeated. The proposed development will continue this in-depth pattern contrary to the established form whilst eroding an open space which contributes positively to the setting and rural character of the settlement and Conservation Area.
- 10.30 During the site visit it was also noted that, due to the topography of the site, views into the site are available from within the Conservation Area at the properties on the northern side of High St, including Grade II listed buildings Laburnam Cottage and Rose Cottage. This view through Prospect Cottages to the open paddocks behind allows an understanding of the linear form of the settlement through the absence of significant in-depth development and strengthens the link between the settlement and the rural landscape. This site therefore is considered to contribute positively to the significance of the Husthwaite Conservation Area.
- 10.31 In addition to the above there is a Public Right of Way to the south of the site. From here a view of the wider landscape to the White Horse as well as down towards the village and Listed Church is available.

10.32 It is considered that this development would result in less than substantial harm to the setting of the Hushwaite Conservation Area. This was supported by the Inspector at the previous appeal where they state: As an open field on rising land that is visible from within the HCA, and forms part of the countryside setting to the village, the appeal site presently makes a positive contribution to the significance of the setting to the HCA.

[...] its open and rural character clearly forms part of the countryside that surrounds the village and contributes to its setting, and its development has the potential to impact on the character and appearance of the village.

[...] Due to the extent of the field to be developed and its visibility on rising land, the proposed development would erode the openness of the appeal site and subsequently the rural setting of this part of the village. As a result, the positive contribution the site presently makes to the open and rural setting of the HCA would be lost. Whilst I have had regard to the potential for additional tree planting as proposed on the indicative landscaping plan, this would not be sufficient in mitigating these impacts.

Further, the location of the development does not respond positively to the historic linear form of the HCA. I appreciate that the site does not fall within the HCA itself and that there are examples of modern development within the village that diverge from the linear form of the HCA, including to the immediate north of the site. I have had regard to the Settlement Character Assessment Study 2018 and note that the site is not identified as an area of sensitivity. However, within this document, the conservation area is recognised as a potential constraint to development and the appeal scheme would be notably at odds with its prevailing linear form. This would be perceptible from within the HCA, when passing along High Street, as well as looking towards the HCA from the footpath to the south. As such, the position and layout of the proposed development would not be commensurate with the prevailing linear form of the village, to the detriment of its character and appearance.

Overall, the proposal would harm the character and appearance of the area. The proposal would conflict with LP Policy HG5, which, amongst other matters, seeks to ensure that proposals have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.

The harm identified would negatively impact on the contribution the appeal site makes to the significance of the HCA. Given the scale and nature of the proposed development, the harm to the significance of the HCA would be 'less than substantial'.

10.33 As previously set out this application is a revision of a previous scheme which was refused and dismissed at appeal. In this application the applicant has included layout and landscaping for consideration to seek to offset the issues raised in the previous application. The proposed layout shows the dwelling set back from the access road with landscaping provided with the aim of creating a view through the site. The proposed development, however, would still be visible through Prospect Cottages. The landscape character would change as a minimum from that of rural agricultural to formalised planting and the access road. It is considered that due to the topography of the site the layout will not mitigate the impact of development.

- 10.34 In addition, it is considered that it is the principle of development that would chiefly result in harm to the Conservation Area and that this could not be mitigated through layout. Development of this in-depth site does not respond to the historic linear character of the village contrary to Policy HG5. This was supported by the Inspector who stated in their report that the location of the development does not respond positively to the historic linear form of the Husthwaite Conservation Area and the appeal scheme would be notably at odds with its prevailing linear form. They further state: This would be perceptible from within the Husthwaite Conservation Area, when passing along High Street, as well as looking towards the Husthwaite Conservation Area from the footpath to the south. As such, the position and layout of the proposed development would not be commensurate with the prevailing linear form of the village, to the detriment of its character and appearance.
- 10.35 Local Plan Policy E5 and Paragraph 208 of the National Planning Policy Framework require that less than substantial harm is balanced against any public benefits. This is discussed in the Planning Balance section below.

#### Amenity

- 10.36 Local Plan Policy E2 states that all proposals will be expected 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.
- 10.37 Layout forms part of this outline application but scale and appearance are reserved matters, although a mix schedule has been provided. The layout plan shows a separation distance of approx. 35m where dwellings face each other. Plots 1-8, 11-15 and 18-20 show acceptable levels of outdoor amenity space. Plots 9,10 are considered small and there is no amenity space shown for plots 16 and 17 (which are 1bed affordable dwellings). The footprints shown demonstrate that the number of dwellings could be provided whilst adhering to the Nationally Described Space Standards albeit in some areas at the expense of outdoor amenity space. This is demonstrated by plot 10 which has a ground floor footprint of approx. 82sqm. It appears that approx. 30-35sqm will be allocated to garaging, however, as noted above the outdoor amenity space for this plot is considered on the smaller end of the scale.

#### Drainage and Flood Risk

- 10.38 Policy RM1 seeks to ensure that water quality, quantity and foul drainage are appropriately addressed in developments. Foul water will discharge to public foul sewer network. This is acceptable to Yorkshire Water who have not raised capacity as an issue for them.
- 10.39 The purpose of Policy RM2 is to ensure that inappropriate development in areas at risk of flooding is avoided and that the users and residents of development are not put at unnecessary risk in relation to flooding. The site lies within Flood Zone 1 so is considered to be at low risk of flooding.
- 10.40 Policy RM3 sets out the Council's approach with regards to ensuring that surface water and drainage are managed in a sustainable manner. A Flood Risk and Drainage Assessment is submitted with the application detailing how the site will be drained of surface and foul water without increasing flood risk elsewhere.

- 10.41 A Drainage Strategy was submitted in support of the application. The strategy identifies that the site is in Flood Zone 1. The report indicates that percolation testing has found that surface water disposal through infiltration is not a viable option. This is supported by local anecdotal evidence of underground springs in this area. The site is not located in proximity to any suitable waterway and therefore it is considered that surface water drainage should be connected to the mains system.
- 10.42 Yorkshire Water have been consulted and have agreed that the sub-soil conditions do not support the use of soakaways and that the site is remote from any waterways. Yorkshire Water have accepted the proposal to discharge surface water to the surface water sewer in High Street via a storage system with restricted discharge rate of 3.5litres/second.
- 10.43 Foul water would similarly be discharged to the public system in High Street. Further surveys are required to ascertain whether this can be achieved via a gravity connection or whether a pumping station will be required. Given that the application is in outline this level of information is suitable at this stage.
- 10.44 The Lead Local Flood Authority have been consulted and additional information was requested. This has been provided however a final response is awaited from the Lead Local Flood Authority. It is anticipated that final comments will be provided prior to the Committee meeting, however, it should also be noted that there were no objections from the Flood Authority on the previous application.

#### Highway Safety

- 10.45 Policy IC1 states that the Council will seek to ensure that development is supported by the timely delivery of necessary infrastructure and facilities. Policy IC2 states that the Council will work with other authorities and transport providers to secure a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all.
- 10.46 Access to the site is to be taken from High St through Prospect Cottages. The Highways Authority have been consulted and returned no objections subject to conditions relating to surface water, detailed plans for roads and footways, minimum construction standards for use, details of access turning and parking and a Construction Management Plan for small sites.

#### Biodiversity

- 10.47 Planning Permissions in England are deemed to be granted subject to the general Biodiversity Gain Condition as set out by Schedule 7A, paragraph 13 of the Town and County Planning Act 1990 (TCPA) as amended by Schedule 14, Part 2, paragraphs 13, 14 and 15 of the Environment Act 2021. This is a pre-commencement condition. This application was submitted prior to the requirement coming into force and therefore the deemed condition will not apply in this case. Policy E3 (The Natural Environment) of the Local Plan, however, states that all development will be expected to demonstrate the delivery of a net gain for biodiversity. Paragraph 6.46 of the supporting text states that the latest DEFRA guidance and relevant metric tool should be used to demonstrate compliance

with the policy. Policy E3 also states that harm to biodiversity should be avoided, but where unavoidable, should be appropriately mitigated.

- 10.48 A Biodiversity Net Gain Metric and associated report have been submitted in support of the application. The metric shows that the site currently supports 5.74 habitat units and 2.63 hedgerow units. There are no river units at this site. The metric further shows that the development as currently designed will result in a net loss of 54.23% for habitat units and a net gain of 28.66% for hedgerow units. Based on the current proposals it is argued that the site cannot achieve a net gain for habitats within the site. An off-site contribution would therefore be required.
- 10.49 Under the previous scheme it was agreed at appeal that the Biodiversity Net Gain could be achieved on adjoining land within the applicant's ownership. This does not now appear to be proposed as a draft S106 agreement has been provided which outlines the methods for the provision or purchase of off-site units. The draft also contains provision for payments to the Council in lieu of off-site credits should the developer be unable to obtain the necessary credits. There is no provision for this in national guidance and therefore this element of the draft is not agreed. It is considered, however, that given the recommendation it is not necessary to agree the wording of the S106 at this stage. It is recommended, however, that should the Committee be minded to grant planning permission, that this be subject to the removal of this element from the S106 so that the agreement and Biodiversity net gain provision is in line with national guidance.
- 10.50 A Preliminary Ecological Appraisal has been submitted in support of the application. The appraisal indicates that an assessment of the on-site building was carried out in order to identify the presence of any potential roost features (PRFs) for bats, and/or evidence of roosting bats. In addition, a preliminary ground-level roost assessment of any trees on or directly adjacent to the site was carried out in order to identify the presence of any PRFs for bats, such as split bark, woodpecker holes and other cavities for bats and/or evidence of roosting bats. The report goes on to state that the building on site is of negligible suitability for bats owing to it having a single-skin roof with no insulation and no enclosed spaces where bats might roost. The fascias and soffits in the buildings immediately adjacent to the site were all tight to the wall and no PRFs were seen in them. One mature ash tree (*Fraxinus excelsior*) on neighbouring land immediately adjacent to the northern site boundary was identified as holding at least one potential roost feature (PRF), however, this appears to have now been felled.
- 10.51 Other nearby trees were assessed as having a moderate to high suitability for bats and therefore the report recommends that construction be limited to day light hours and the use of lighting be restricted.
- 10.52 The report goes on to state that the site is considered unsuitable for Great Crested Newts or other reptiles and no further surveys are recommended. The report also indicates that Overall, the site was deemed to be of high suitability for nesting birds. However, provided basic mitigation measures are implemented and adhered to, and (where possible) any vegetation removal carried out outside of the main bird nesting season (March to August inclusive), the impacts to nesting birds as a result of the proposed development are expected to be low.
- 10.53 The report contains a number of recommendations which should be secured by condition should members be minded to grant planning permission.

## S106 Legal Agreement

- 10.54 Whilst a draft agreement has been submitted this has not been reviewed by the Councils Legal Team as this work is reserved until after a resolution from Committee is available. The following Heads of Terms have been agreed with the applicant for this application.

<b>Table 1</b>		
<b>Category/Type</b>	<b>Contribution</b>	<b>Amount &amp; Trigger</b>
Affordable Housing	7 dwellings, 2 of which for social rent, 2 for affordable rent and 3 for intermediate units including at least one First Home.	Affordable Housing Scheme, Transfer of units linked to phased occupation of site.
POS Delivery and Maintenance	Delivery on site	Delivery and maintenance to be agreed in Open Space Scheme.
Biodiversity Net Gain	Compliance, funding, monitoring and enforcement	Scheme to be approved prior to commencement and implantation to be agreed in the scheme, monitoring fee
Self Build	2 plots	
Monitoring	S106 Monitoring	£500 index linked, prior to commencement of development

- 10.55 It is considered that the above S106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 In order for the principle of development to be established Policy HG5 requires that a number of criteria are met. Of the criteria outlined in the Policy it is considered that the proposal conflicts with parts d. and e. which require that proposals not result in the loss of open space that is important to the historic form and layout of the village and have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.
- 11.2 In addition to the above the proposal is considered to result in less than substantial harm to the significance of the Husthwaite Conservation Area. Local Plan Policy E5 and Paragraph 208 of the National Planning Policy Framework require that less than substantial harm is balanced against any public benefits. The applicant has provided a statement identifying what they consider to be the benefits of the scheme.
- 11.3 In summary much of what is provided is the general social and economic benefits which would be associated with any housing scheme of this size. These include social and economic benefits such as the provision of housing including bungalows, additional council tax generated from this, job creation through planning, construction and post construction phases and additional spending in the area by new residents.

- 11.4 Improving the setting of heritage assets through the demolition of the barn onsite is also listed, however, it is considered that the development is not required to achieve this and would result in significantly greater harm to the Conservation Area than the existing agricultural building.
- 11.5 Under Environmental benefits the applicant has listed provision of energy efficient homes, Electric Vehicle Charging Points and water conservation however, much of this is required by Building Regulations as standard. It is considered that the many of the benefits listed in this section are undefinable such as increased incentive to improve public transport. The preservation of green space referring to the set back of development either side of the access road is considered a marginal improvement on the previous scheme but not a benefit considering the current status of the site. Indeed, the development would result in a 54% reduction in habitats which would need to be offset offsite resulting in a significantly less desirable environmental position for this site.
- 11.6 The proposal does provide one additional affordable dwelling above the 30% requirement resulting in a 35% provision at this site. The Housing Officer has confirmed that only secondary data is available relating to affordable housing need in Husthwaite. This is based on 2021 census data and information extrapolated from this such as the number of minors who will be in need of new housing or income levels etc rather than a direct needs survey based on eligibility criteria. The Housing Officer has indicated that the secondary data gives an estimate of 3 affordable dwellings per year. The provision of 7 affordable houses in this area, one more than the requirement, therefore, is a benefit of the scheme that attracts some weight.
- 11.7 The proposal also includes the provision of two self-build plots. It should be noted that in order to be considered against the Councils targets for self builds these would need to be secured by legal agreement. The applicant has provided a statement regarding the Councils requirement to provide self-build plots. The Councils Policy Officer has provided a description of how this need is calculated as the method has changed in recent years.
- 11.8 The new method of calculation results in 34 plots which must be provided by October 2026. It is possible, however, that this number may be overstated as the criteria for recording is now stricter resulting in fewer plots being counted. In addition, need that the Council would have previously considered to be met using CIL is now counted again due to stricter rules around securing the plots and the need is cumulative for a number of years. The number of plots required therefore is considered a worst-case scenario. Proposals for self-build appear to be increasing as they are exempt from provision of Biodiversity Net Gain.
- 11.9 The Council does therefore have some need for self-build plots, however, the argument put forward by the applicant that the need is significantly higher is not accepted. Neither therefore is it accepted that the provision of two self-build plots be given significant weight. In this case it is recommended that the provision of self-build plots can be afforded some weight.
- 11.10 The Council has a land supply in excess of 8 years, however, the provision of 20 units with 7 affordable dwellings and two self-build plots is acknowledged as a public benefit along with the economic benefits during construction, through increased investment, employment and spend in the supply chain, post development benefits of additional income for the

Council and spending in the local area as well as Social and Environmental benefit of public open space. This is weighted against the harm to the rural setting of the village and Conservation Area noting that Paragraph 195 of the National Planning Policy Framework highlights that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

- 11.11 Overall, it is considered that the proposal results in less than substantial harm to the significance of the Husthwaite Conservation Area and that this harm, which is permanent, is not outweighed by the public benefits of the scheme identified by the applicant. In addition the proposal is contrary to criteria d. and e. of local Plan Policy HG5 which seeks to ensure that proposals would not result in the loss of open space that is important to the historic form and layout of the village and have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission be REFUSED for the following reasons:

- i. The proposal would result in the loss of open space that is important to the historic form and layout of the village. In addition, the development would have a detrimental impact on the rural character of the village and result in the loss of countryside that makes a significant contribution to the character and setting of the village. The proposal is therefore contrary to criteria d. and e. of the Hambleton Local Plan Policy HG5.
- ii. The proposal would result in the erosion of the close relationship between the settlement and the open arable and pastoral fields and the relationship between the settlement and the wider rural landscape which contributes greatly to the significance of the Husthwaite Conservation Area. This impact is considered to result in less than substantial harm to the significance of the Husthwaite Conservation Area. This harm is not considered to be outweighed by public benefits and the proposal is therefore contrary to Paragraph 208 of the National Planning Policy Framework and Policy E5 of the Hambleton Local Plan.

**Target Determination Date:** 25.07.2024

**Case Officer:** Aisling O'Driscoll, [aisling.odriscoll@northyorks.gov.uk](mailto:aisling.odriscoll@northyorks.gov.uk)