

Meeting: Selby and Ainsty Area Planning Committee

Members: Councillors John Cattanach (Chair), Bob Packham (Vice-Chair), Karl Arthur, Mike Jordan, Cliff Lunn, Steve Shaw-Wright and Arnold Warneken.

Date: Wednesday, 9th October, 2024

Time: 2.00 pm

Venue: Selby Civic Centre

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

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Agenda

1. **Apologies for Absence**

2. **Minutes for the Meeting held on 11 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. ZG2024/0183/FUL - Rudgate Bridge, Newton Kyme (Pages 5 - 34)

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

5. ZG2023/1307/FUL - Woodbine Grange, Main Street, Ryther (Pages 35 - 54)

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

6. Any other items

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

7. Date of Next Meeting

Wednesday, 20 November 2024 at 2.00pm.

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

Agenda Contact Officer:

Dawn Drury, Democratic Services Officer

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Tuesday, 1 October 2024

North Yorkshire Council

Selby and Ainsty Area Planning Committee

Minutes of the meeting held on Wednesday, 11th September, 2024 commencing at 2.00 pm.

Councillor John Cattanach in the Chair plus Councillors Karl Arthur, Mike Jordan, Cliff Lunn, Bob Packham, Steve Shaw-Wright and Arnold Warneken.

Officers present: Kelly Dawson – Senior Solicitor – Property, Planning & Environment, Hannah Blackburn - Planning Development Manager, Elizabeth Maw – Senior Planning Officer; and Dawn Drury – Democratic Services Officer

Copies of all documents considered are in the Minute Book

23 Apologies for Absence

There were no apologies for absence.

24 Minutes for the Meeting held on 14 August 2024

The minutes of the meeting held on Wednesday 14 August 2024 were confirmed and signed as an accurate record.

25 Declarations of Interests

Councillor Cliff Lunn declared a non-pecuniary interest in item number 4 of the agenda as he was the Division Member for the area of the application. He confirmed that although it was within his division area he had an open mind and would speak and vote on the item.

The Chair confirmed that an officer update note had been circulated and added to the North Yorkshire Council website.

The Committee considered a report of the Assistant Director Planning – Community Development Services relating to an application for planning permission.

The conditions as set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

In considering the report of the Assistant Director Planning – Community Development Services, where the Committee granted planning permission in accordance with the recommendation in a report this was because the proposal was in accordance with the development plan, the National Planning Policy Framework or other material considerations as set out in the report unless otherwise specified below.

26 2023/0141/FUL - Honeypot Farm, Common Lane, Burn, Selby, North Yorkshire

Considered:-

The Assistant Director Planning – Community Development Services sought determination

of a planning application for a new office building following demolition of an existing barn, conversion of an existing building to an office and associated works on land at Honeypot Farm, Common Lane, Burn, Selby.

The Senior Planning Officer presented the application to Members.

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

- Members queried if the objections received by the Council from a neighbouring property had been submitted by the property closest to the site.
- In terms of noise issues, Members queried if this had been covered by previous conditions on another previous application.
- Whether objections had been received from the Environment Agency and flood risk and drainage issues had been addressed.
- If Members were correct in thinking that any enforcement complaint against the existing business wasn't relevant to this application, and that the application should be determined on its own merits.
- If this application was to aid a complete relocation of business premises for the company to this site.

The decision:-

That planning permission be GRANTED subject to the conditions listed at section 12 of the Committee report.

Voting record:-

A vote was taken, and the motion was carried unanimously

27 Any other items

There were no urgent items of business.

28 Date of Next Meeting

Wednesday 9 October 2024 – Civic Centre, Selby.

The meeting concluded at 2.11 pm.

North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

9th October 2024

ZG2024/0183/FUL - COMPLETION OF THE INFILLING OF FORMER RAILWAY BRIDGE USING ENGINEERING FILL AND FOAM CONCRETE, WITH AN ASSOCIATED EMBANKMENT FORMED ON THE EASTERN SIDE WITH ASSOCIATED WORKS TO TREES IN THE 'TPO 2A/1982 NEWTON KYME' AND REPLACEMENT PLANTING ON LAND OFF A659 (PART RETROSPECTIVE) AT LAND OFF A659 AND RUDGATE NEWTON KYME

ON BEHALF OF NORTH YORKSHIRE COUNCIL

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a planning application for completion of the infilling of former railway bridge using engineering fill and foam concrete, with an associated embankment formed on the eastern side with associated works to trees in the 'TPO 2a/1982 Newton Kyme' and replacement planting on land off A659 (part retrospective) at land off the A659 and Rudgate at Newton Kyme.
- 1.2 The application is referred to Planning Committee by the Head of Development Management as it raises significant planning issues.

2.0 SUMMARY

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

- 2.1. The application has been submitted by National Highways and relates to works already undertaken to infill the underside of a former railway bridge at off A659 (part retrospective) at land off the A659 and Rudgate at Newton Kyme. The works have been undertaken with the exception of the replacement tree planting and provision of the bat boxes.
- 2.2. The main considerations of the application relate to the impact of the scheme on the Green Belt, the Locally Important Landscape Area, loss of trees covered by a Tree Preservation Order and impact of the works on the non-designated heritage asset of the railway bridge itself.
- 2.3. The proposal infills the structure, does not impact on any defined access routes nor does it on its own prevent such linkages as the ground level is raised on the other side of the structure. The scheme is considered to accord with the relevant policies in the Selby Local Plan and Core Strategy and with National Planning Policy Framework and it is considered acceptable in principle. The concerns raised by interested parties have been taken into account and conditions have been recommended to ensure the

impacts of the development are managed in terms of replacement planting and ecological mitigation.

Land off A659 And Rudgate, Newton Kyme
ZG2024/0183/FUL



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3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found here - [ZG2024/0183/FUL | Completion of the infilling of former railway bridge using engineering fill and foam concrete, with an associated embankment formed on the eastern side with associated works to trees in the 'TPO 2a/1982 Newton Kyme' and replacement planting on land off A659 \(part retrospective\) | Land Off A659 And Rudgate Newton Kyme \(selby.gov.uk\)](#)
- 3.2. The application has been made following investigation by the Council's Planning Enforcement Team, which confirmed that the works carried out required planning permission as they did not benefit from permitted development rights under Schedule 2, Part 19 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

4.0 SITE AND SURROUNDINGS

- 4.1. The bridge structure is located within a rural area, approximately 1km southwest of the village of Newton Kyme and is approximately 3km to the northwest of Tadcaster. The bridge carries an unclassified public road (Rudgate) over the disused former Church Fenton to Harrogate branch line, which was part of the former York and North Midlands Railway.
- 4.2. The Rudgate road bridge is a brick arch overbridge on an unclassified road. The segmental profiled arch barrel is constructed from brick with stone voussoirs. The arch is supported on gravity type abutments constructed of regularly coursed stone. The parapets, wingwalls and spandrels are also constructed of well-coursed ashlar stonework this design is thought to be typical of bridges built in this period. Underneath the bridge are the remains of the former Harrogate–Church Fenton Railway Line.
- 4.3. The bridge was built over the Harrogate to Church Fenton branch line of York & North Midlands Railway circa 1848. The bridge would be one of many railway bridges constructed at the time to facilitate the York & North Midlands Railway.
- 4.4. The bridge structure is largely obstructed from view the works to infill have been completed on site and there are limited views available of the structure from public vantage points.
- 4.5. It is understood from the Planning Statement that “the former railway cutting to the west of the structure had previously been infilled by third parties and which partially extended under the structure prior to the applicants taking over management of the structure. These works raised the cutting level in line with surrounding ground levels and left a steeply sloping embankment underneath the arch”. Officers have considered these works and consider these to be lawful and therefore outside the time period within which enforcement action could be taken.
- 4.6. There are established trees surrounding the bridge structure and steep slopes lead down to the resultant ground level. The area where the infilling has occurred is adjacent to and within G1 on TPO2a/1982 which is an area mainly consisting of hazel, ash and sycamore located on the disused railway line stretching from Rudgate Bridge to Lacerne Farm to the west.

- 4.7. The sites are located outside the development limits of any settlement, within the open countryside and within the Green Belt and “Locally Important Landscape Area” as defined by the Selby District Local Plan (2005). It is also on potentially contaminated land as a result of railway uses, and within an area safeguarded to building stone and limestone extract. The site is also within an impact zone for a SSSI (FID 62) and consultation zones for National Grid and Leeds East Airport.

5.0 **DESCRIPTION OF PROPOSAL**

- 5.1. This application site is split between the works to complete the infill the bridge (which have been undertaken) and parcels of land where new tree planting will be undertaken.

- 5.2. The scheme is set out on the following:

Location Plan	Ref B28380DE-GG-0007-Rev PO2
Existing Sections	Ref B28380DE-GG-0003-Rev PO1
Existing Site Plan	Ref B28380DE-GG-0001-Rev PO1
Proposed Site Plan	Ref B28380DE-GG-0004-Rev PO2
Proposed Sections	Ref B28380DE-GG-0006-Rev PO1
Proposed Elevations	Ref B28380DE-GG-0005-Rev PO1
Landscape Plan	Ref B28380DE-CFH1/12-LAN-021-02 Rev PO2

- 5.3. The following reports have been submitted in support of the application:

Planning Support Statement (ref 0451538 Rev 0) prepared by Jacobs dated February 2024
 Tree Survey Report (ref 0451539 Rev P03) prepared by Jacobs dated 12th February 2024
 Heritage Assessment (ref B38380SS Rev 04) prepared by Jacobs dated 1st February 2024
 Ecology Survey (ref CFH1/12 Rev 1) prepared by Jacobs dated 9th May 2023

- 5.4. The applicants also submitted two further Statements:

National Highways response to Representations from Statutory Consultees and Third Parties (Rev 1)” received in July 2024
 National Highways response to further representations from THREG” in September 2024 which was a rebuttal to the comments made by the heritage Group on the National Highways submission in July 2024.

These have been considered by Officers in the assessment of the application.

- 5.5. The red line for the works for the completion of the infilling shows encompasses an area of land to the west of the bridge and an area to the east and the under section of the bridge under the highway. The works to complete the infill of the bridge have been undertaken and the materials used where a granular fill which was then compacted and then a 150mm topsoil was added to the resultant embankment. There was also a concrete block wall added to retain foam from the concrete pour which filled the top section under the bridge. The parapet was repointed on the both the eastern and

western elevation. There is a small section of earth fill between the stone arch and the road above which is earth fill. Details of the works are set out on the submitted drawings.

- 5.6. The proposed areas for the planting of trees as proposed mitigation for the loss of tree within the TPO as a result of the works are located to the north west of the application site – one to the east of Station House fronting the A659 and one to the south west of Station House A659. The proposed tree planting is shown on submitted Landscape Plan (Ref B28380DE-CFH1/12-LAN-021-02 Rev PO2) which also confirms the grouping of trees that were removed to facilitate the works all of which were to the east of the bridge on the northern embankment section as well as the provision of four bat boxes. The Landscape Plan shows the provision of three trees of each of the parcels (with indicative locations noted) and these are noted in the specification to be:

Area to East of Station House	2 Common Beech, 2 English Oak and 1 Elm
Area to West of Station House	2 English Oak, 2 Common Beech and 1 Elm
Area to the West of Bridge	3 Elm

These trees have girths of 10-12cm and minimum height of 300-350cm. Details are also set out of planting approaches, management and maintenance based on a 10 year period.

- 5.7. As noted above the works have been undertaken on site and the submitted Planning Statement includes photographs of the site prior to the works and now that the work has been completed. Officers have not been able to view the site from the dismantled rail bed due to access restrictions and on health and safety grounds. A site visit has been undertaken to view the works from Rudgate and to consider the context of the site and the location of the proposed tree planting.

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 the 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:
- Selby District Core Strategy Local Plan (adopted 22nd October 2013)
 - Those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
 - Minerals and Waste Joint Plan (adopted 16 February 2022)

Emerging Development Plan – Material Consideration

- 6.3. The Emerging Development Plan for this site is:
- Selby District Council Local Plan publication version 2022 (Reg 19)

- 6.4 On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. A further round of consultation on a revised Regulation 19 Publication Local Plan was undertaken in March 2024 and the responses are now being considered. Following any necessary minor modifications being made it is intended that the plan will be submitted to the Secretary of State for Examination.
- 6.5 In accordance with paragraph 48 of the NPPF, given the stage of preparation following the consultation process and depending on the extent of unresolved objections to policies and their degree of consistency with the policies in the NPPF, the policies contained within the emerging Local Plan can be given weight as a material consideration in decision making and, if relevant, will be referred to in the body of the report.
- The North Yorkshire Local Plan
- 6.6 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

- 6.7 Relevant guidance for this application is:
- National Planning Policy Framework December 2023 (NPPF)
 - National Planning Practice Guidance (PPG)
- 6.8 On 30 July 2024, the Government announced in a Ministerial statement its intention to reform the planning system, including making changes through a Planning and Infrastructure Bill in the first session and revising the NPPF with the key aim of delivering the Government's commitment to build new homes. Such Ministerial statements can be material to the determination of planning applications. The proposed revisions to the NPPF were subject to consultation which closed on the 24 September 2024. At this time, whilst the Ministerial statement is acknowledged, it is noted that the December 2023 iteration of the NPPF remains until such time as revised legislation is passed and / or policy is published.

7.0 CONSULTATION RESPONSES

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Newton Kyme Parish Council** - No comments made and note that the work has already been carried out.
- 7.3. **NYC Highways** – Confirmed that the Bridges team has reviewed the proposal and has no concerns regarding the Structural infilling of former railway bridge and there are no objections to the application including to the TPO works.

7.4. **NYC Conservation Officer** – A series of comments have been received on the application from the NYC Conservation Officer. Final comments (dated 28th August 2024) advised that “having reviewed the additional information the heritage objection can be removed as the additional landscaping would go some way to improving the works carried out. The scheme is considered acceptable”.

7.5. **NYC Archaeology** – A series of comments have been received on the application from the NYC Archaeology Officer. Final comments noted the following observations on Section 3.1 of the additional information:-

Paragraph 1. Nowhere in my original response do I state that I consider the bridge a candidate for statutory listing. I merely point out the Historic England guidance on this matter. In my original correspondence I agreed that the bridge is a 'non-designated heritage asset' but note that it may meet some of the criteria for listing.

Paragraph 3. I completely disagree with the statement that absence of a HER entry is a factor in establishing the level of significance of a heritage asset. The lack of coverage of certain monument classes within HERs is a result of lack of resources within local authorities rather than a conscious decision to omit features due to a low significance.

Penultimate paragraph. I take the point that the correct NPPF paragraph to apply is 209 and note that the closing paragraph of my original response recommends that a balanced view is taken.

7.6. **NYC Tree Officer** – a series of comments have been received on the application from the NYC Tree Officer. Final comments (dated 10th September 2024) advised that he was “content to support the amended landscape scheme to include the extra trees. While not ideal (to the non-consented felling) if we look to TPO these trees it will provide for some longer-term replacements that will have the space to mature as opposed to being part of the existing woodland”.

7.7. **NYC Ecology** – a series of comments have been received on the application from the NYC Tree Officer. Final comments dated 6th August 2024) advised that:

“I am pleased to see that compensation has now been built into the proposals in order to offset the loss of potential bat roost features that were present within the structure. This will include artificial bat roost units mounted on trees in close proximity to the structure. It is also noted that additional compensatory trees are being included within the landscape scheme. I am pleased to see that these will be native species appropriate to the local area. Overall, I am now satisfied that the ecological impacts of the scheme will be mitigated and compensated”.

7.8. **Ainsty Internal Drainage Board** – (13th March 2024) – advised that the application site is outside the Board’s area, that there are no Board maintained watercourses in the vicinity and as such it is not considered that the proposal will have a material effect on the Board’s operation and therefore they confirmed that they have no comments on the application.

- 7.9. **National Grid** – (4th April 2024) – no objection to the proposal that is nearby overhead lines.
- 7.10. **National Gas** – initial comments on the 13th March 2024 noted that the development was within the high risk zone for their apparatus. However, on the 20th March 2024 they advised that they had no objection to the proposal despite it being within close proximity to a high-pressure gas pipeline- feeder.
- 7.11. **Yorkshire Water** – (9th April 2024) - Confirmed no comments on the application.

Local Representation

- 7.12. The application has been subject of site notices and press notices, and comments from 148 individuals (as of 11th September 2024) have been received, as well as comments from a series of interest groups associated with heritage and railway heritage. A detailed summary of these responses can be found at Appendix A, but an overview is provided below:
- 7.13. Comments have been received from **heritage / railway interest groups** including “Save Britain’s Heritage” and the “HRE Group”. In summary, these focus on the need for the works to be undertaken, the impact on the heritage asset, the use by Highways England of permitted development rights and the loss of the ability to access the structure / railbed as a public route.
- 7.14. **Third party** comments focus on the principle of development and the conflict with green belt policy, heritage considerations and the age of the structure potentially being a Non Designated Heritage Asset that is an irreplaceable resource to be conserved in line with national and local policy, the failure of the proposal to consider the engineering implications of the infilling, the works being undertaken using non environmentally friendly materials, felling of protected trees and prevention of wildlife being able to pass under the bridge, impact on the highway, effect on a tourist destination, and the way in which National Highways has undertaken the works which is an abuse of authority and considered to be an act of vandalism.

8.0 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

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

9.0 MAIN ISSUES

- 9.1. The key considerations in the assessment of this application are:
- Principle of Development
 - Appropriateness of the Works to Stabilise the Structure
 - Impact on Heritage Asset
 - Impact on Trees and Tree Mitigation
 - Protected Species, Ecology and Biodiversity Net Gain

- Impact on the Character and Form of Locality including Locally Important Landscape Area (LILA)
- Highways Impact
- Impact on Residential Amenity
- Drainage and Flood Risk
- Minerals and Waste
- Contamination
- Gas and Power Infrastructure
- Other issues arising from Objections and Consultations

10.0 ASSESSMENT

Principle of Development

- 10.1. As engineering operations in the Green Belt then the relevant policies in respect to the principle of development include the presumption in favour of sustainable development under Policies SP1 and SP3 of the Core Strategy and national policy contained within the NPPF.
- 10.2. Policy SP1 of the Core Strategy outlines the positive approach that the Council will take when considering development proposals, reflecting the presumption in favour of sustainable development contained in the NPPF at paragraph 11. This means approving development that accords with an up-to-date local plan.
- 10.3. Policy SP3B of the Core Strategy states, "*In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted*".
- 10.4. The decision-making process when considering proposals for development in the Green Belt is in three stages, and is as follows: -
 - a. It must be determined whether the development is appropriate or inappropriate development in the Green Belt;
 - b. If the development is appropriate, the application should be determined on its own merits;
 - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption against it.
- 10.5. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except for in very special circumstances. Paragraph 153 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 10.6. Paragraph 155 of the NPPF sets out that certain forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
- 10.7. In terms of the purposes of the Green Belt noted within Paragraph 155 then these are set out in Paragraph 143 of the NPPF as being:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 10.8. The scheme is considered to be an engineering operation within the Green Belt and therefore it is considered to be appropriate development within the Green Belt under Paragraph 155.
- 10.9. In terms of whether the scheme preserves the openness of the Green Belt then it is considered that the works do not impact on the openness of the Green Belt given their minimal encroachment beyond the arch itself and given that the regraded area of land results in a vegetated embankment which blends into the landscape and surrounding context.
- 10.10. In terms of any conflict with the purposes of the Green Belt then it is not considered that the scheme results in any impact on these purposes in terms of Paragraph 155, given that it is infilling of the underside of the railway bridge structure and although some infill is beyond the arch this is treated in such a manner as to not represent encroachment or be detrimental to the purpose of the Green Belt or to impact on it in terms of openness.
- 10.11. On this basis, the scheme is considered appropriate development in the Green Belt that does not impact on openness nor on any of the purposes of Green Belt as defined in the NPPF. Therefore, the principle of development can be accepted as being in accordance with the Policies SP1 and SP3 of the Core Strategy and thus in accordance with the development plan subject to all other technical matters being acceptable.

Section 149 of The Equality Act 2010

- 10.12. Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

- 10.13. The development the subject of this application would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics.

Highways Matters and Appropriateness of the Works to Stabilise the Structure

- 10.14. The works that have been undertaken by Highways England have been justified as being works required to stabilise the structure which supports an adopted highway. Policy ENV1(2) of the Local Plan requires that account should be taken of the “relationship of the proposal to the highway, the proposed means of access, the need for road / junction improvements in the vicinity of the site and the arrangements to be made for car parking”. In this case the main consideration is whether the works impact on the use of the highway.
- 10.15. The works were undertaken by the Applicants utilising Permitted Development Rights afforded by Part 19 Class Q and the application has been requested by the Council on the basis that the works are to be retained.
- 10.16. In order to determine whether the infilling of the bridge was the most appropriate method of stabilizing the structure then the first stage is to assess whether such an approach was justified in the context of the Applicants survey data on the condition of the bridge.
- 10.17. Highways England have argued in their submissions that the approach taken was the most appropriate approach given the condition of the bridge so as to secure its longer-term stability as a structure supporting a road, and they have included evidence of survey findings have been provided in support of this application.
- 10.18. Objectors have questioned whether there was such evidence in place, when the works were undertaken, and they have asserted that the approach that has been taken was a standardised approach and was not done in the context of robust justifications. They have also questioned the assessments that have been provided and whether they are appropriate given the design of the bridge itself.
- 10.19. The Council’s Highways Officers in considering the application, have discussed the application with Officers from the Council’s Bridges and Design Service, and as a result of these discussions it has been confirmed that there are no objections to the scheme in highways terms.
- 10.20. Bridges & Design Services have indicated that Highways England should have made submissions pursuant to the Highways Act (via Form 6) to agree the works given they are works to a highways structure. Although such submissions have not been made and these are still required, this is not a matter that Committee can take into account in considering the application given that this falls under legislation out with the planning system.
- 10.21. As it stands the works are completed and the road bridge is operational for traffic use, so there is a public benefit in terms of keeping the bridge safe for use arising from the works that have been undertaken as they secure the bridges stability for the longer term. The benefit of this being the case is at the core of the position of the applicants,

as is the assertion that the works were the most appropriate method to stabilise the bridge.

- 10.22. The Council has no evidence to suggest that there was an alternative approach that could have been taken that would have secured this benefit of long-term stabilization of the structure and the applicants have provided a justification for their approach. In this context, on balance, it is considered that although there may have been alternative options the approach used has been justified by the applicants.
- 10.23. On this basis it is considered that the scheme is acceptable in highways terms, accords with Policy ENV1(2) of the Local Plan and there is no evidence before the Authority to take an alternative view on the proposals.

Impact on Heritage Asset

- 10.24. The bridge is not recorded within the North Yorkshire Historic Environment Record (HER) and is not contained on the statutory list of buildings under the Planning (Listed Buildings and Conservation Areas Act) 1990 either.
- 10.25. In commenting on the application then the Conservation Officer have noted that
- “given the age and of the bridge and although is not considered to be worthy national protection the former railway bridge may have some local significance and be considered to hold some historic value, evidential, aesthetic and communal value”*
- 10.26. In addition, the Heritage Officer has advised that:

“The proposed infilling of the railway arch has had several impacts. It prevents access to the underside of the arch and our understanding and appreciation of its method of construction. It has also obscured the entire face of the bridge including all masonry elements up to parapet level, which are now concealed beneath a substantial embankment. In the terms of the NPPF (para's 205 & 209), the infilling of the bridge and construction of the retaining embankment constitutes harm. It is difficult to assess if this should be considered 'substantial harm' or 'less than substantial harm' as it is not clear how reversible the infill and embankment works are and if the removal of this material would in fact cause greater harm. In forming a balanced planning decision, the local authority should consider the level of harm to the significance of the historic bridge. This could potentially be 'substantial harm' to a non-designated heritage asset of at least local to regional significance (NPPF para. 209)”.

- 10.27. Further justification for the works and assessment of the impacts have been submitted by the Applicants and the Council's Conservation Officer has noted no objections to the scheme and although the Heritage Officer has commented on the submissions there is no objection from an archaeological perspective either.
- 10.28. Paragraph 209 of the NPPF states the significance of a non-designated heritage asset should be taken into account in determining applications. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will

be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 10.29. It is considered that the bridge does hold some local historical value, and as such the Committee should consider whether there is public benefit arising from the development that has been undertaken and whether these works are acceptable if retained or not.
- 10.30. In the context of the comments from heritage officers then it is considered that the approach utilised by Network Rail to infill the bridge is acceptable in heritage terms and it is considered that the applicants have fully justified to the scheme to the satisfaction of the statutory consultees.
- 10.31. A further factor which should be considered in assessing the scheme and its impacts is the affect the scheme has on the ability to view the underside of the arch and the ability to use the railbed as a right of way for users such as pedestrians and cyclists. In commenting on the application then third parties have noted that the works have resulted in the loss of a potential / existing pedestrian and cycle links under the bridge either as part of a Sustrans link or a public right of way. The Heritage Officer has also noted that the works prevent access for the public to view the underneath of the structure or to view the arch elevation.
- 10.32. In terms of the loss of ability to walk / cycle etc under the structure then a route through the bridge arch was not available prior to the works undertaken by National Highways in 2021 as a result of the ground raising that has occurred on the eastern side which prevented access through the whole arch. There is no legally defined right of way under the bridge, and it is not defined as being part of the any formalised route. In addition, access to view the underside of the arch prior to the works being undertaken was only possible via third party land or through climbing down embankments. The elevation of the arch would have been visible by looking over the structure from the road / side embankment, but this view would be highly limited when travelling / walking over the structure unless the user specifically stopped to look over the parapet or moved onto the verges / embankment itself.
- 10.33. Ultimately, the proposed works have not restricted a legally defined right of way and nor has the work prevented creation of such a linkage given that ground level changes have already occurred on the eastern side of the structure that are unlawful from enforcement and prohibit such a link being provided. In addition, although there has been an impact on the ability to appreciate the structure from public vantage points / underneath this has to be considered as part of the planning balance and consideration of the public benefits arising from the development.
- 10.34. On balance, it is considered that the works are acceptable and given the scheme has not restricted a legally defined right of way and nor has the work prevented creation of such a linkage given that ground level changes have already occurred on the eastern side of the structure. On this basis the scheme is considered to be acceptable and to accord with local and NPPF policy.

- 10.35. Policy ENV1 states that proposals for development will be permitted provided a good quality of development would be achieved, and that in considering proposals the Council will “the effect upon the character of the area” and “the standard of layout, design and materials in relation to the site and its surrounding and associated landscaping”. Policy SP18 of the Core Strategy aims to safeguard and enhance the natural environment. Paragraph 180 of the NPPF seeks planning decisions to contribute to and enhance the local environment by, inter alia, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem service, including from trees and woodland.
- 10.36. The works undertaken by National Highways impacted on trees covered by a Tree Preservation Order Ref 'Tree Preservation Order 2a/1982" (TPO). The works resulted in the loss of circa 13 within the TPO adjacent to the structure.
- 10.37. The scheme as submitted shows replacement tree planting in three locations – adjacent to the structure, to the south-west of Station House and the east of Station House. The proposed planting is all located within land within the red line, albeit within land not in the ownership of National Highways, but within ownerships upon which the required notices have been served of the application.
- 10.38. The Tree Officer has considered the revised proposed replacement planting and following provision of revised plans has confirmed that the replacement planting is acceptable as compensation for the tree loss which arose when the works were undertaken to infill the structure and create the external area embankment.
- 10.39. The proposed tree planting, as a replacement for trees within an existing TPO should be protected via a new TPO as well as a condition on any consent to require replacement planting of these trees within a stated period over and above the standard 5-year period normally utilised in landscaping conditions. It is considered in this instance that a condition noting a 10-year period (which is consistent with the submitted Landscaping Plan) would be appropriate alongside a TPO for the replacement planting under a Section 4 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which would mean that the order would take effect from the point where the replacement planting is planted.
- 10.40. On this basis, it is considered that appropriate replacement planting has been secured, are acceptable and to accord with local and NPPF policy, subject to the tree being covered by a TPO once planted.

Protected Species, Ecology and Biodiversity Net Gain

- 10.41. Local Plan Policy ENV1 requires account is taken of the potential loss, or adverse effect upon, significant wildlife habitats.
- 10.42. The foreword to Core Strategy Policy SP2 states the protection and enhancement of biodiversity and natural resources is a basic principle of national planning guidance, which can also influence the location of development. Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment will be sustained by promoting effective stewardship of the District's wildlife by a) safeguarding

international, national and locally protected sites for nature conservation, including SINCs, from inappropriate development. b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.

- 10.43. NPPF paragraph 180 requires decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 10.44. NPPF paragraph 186 requires when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 10.45. The development plan policies are consistent with the NPPF and are given significant weight.
- 10.46. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the LPA to determine if the proposal may affect the protected features of a habitats site before deciding whether to permit development. This requires consideration of whether the proposal is likely to have significant effects on that site. This consideration – typically referred to as the ‘Habitats Regulations Assessment screening’ – should take into account the potential effects both of the proposal itself and in combination with other proposals.
- 10.47. The Ecology Officer in initially commenting on the application noted the submitted Ecology Report which noted features of bat roost potential (both summer and for hibernation) and that whilst there were no bats present when the works were completed the potential roost features will have been lost and as such the Council would expect to see compensation provided via mitigation such as artificial bat roost. It was also noted that there should be net gain through an increase in the total number of trees planted. On this basis additional enhancement (net gain) was sought from the Applicants as part of the negotiation with the Applicants.
- 10.48. The revised Landscape Plan provided by the Applicants in August 2024 showed the provision of bat boxes which are considered to be appropriate mitigation by the Council’s Ecologist, to offset the loss of potential bat roost features that were present within the structure through both the boxes and the native planting.
- 10.49. On this basis the scheme is considered to accord with the noted local policies and NPPF guidance on the basis that the ecological impacts of the scheme will be mitigated and compensated.

Impact on the Character and Form of Locality including Locally Important Landscape Area (LILA)

- 10.50. The site sits within the open countryside and there are a number of isolated dwelling along Rudgate as well as a dwelling to the north-west of the bridge located on the A659. As noted above the bridge sits under the road known as Rudgate and over the dismantled railway line.
- 10.51. Policy ENV1 states that proposals for development will be permitted provided a good quality of development would be achieved, and that in considering proposals the Council will “the effect upon the character of the area” and “the standard of layout, design and materials in relation to the site and its surrounding and associated landscaping”.
- 10.52. Policy ENV15 of the Local Plan (2005) states that “Within the locally important landscape areas, as defined on the proposals map, priority will be given to the conservation and enhancement of the character and quality of the landscape. Particular attention should be paid to the design, layout, landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area.”
- 10.53. Policy SP18 of the Core Strategy sets out the context for the consideration of applications for works related to historic assets which contribute most to the distinct character of the setting and of acknowledge importance.
- 10.54. NPPF paragraph 174 requires policies and decisions should contribute to and enhance the natural and local environment by (a) protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan).
- 10.55. The site sits in the “West Selby Limestone Ridge” Character 8 as defined in the Selby Landscape Character Assessment (2019) (LCA) and within the Locally Important Landscape Area (LILA) covered by Policy ENV15 of the Selby District Local Plan (2005).
- 10.56. The Landscape Character Assessment (2019) notes this area to be of varied topography which undulates throughout the character area, creating a medium-large-scale rolling landscape rising up from the relatively low-lying and flat land in the east, to higher elevations in the interior of the Limestone Ridge to the west. The area is noted in the LCA (2019) as being an area of natural character which has a lower sensitivity to changes due to the highly undulating landscape in which new features would likely be screened by intervening topography. It is also noted in the LCA that “Woodland on the upper slopes of the limestone ridge contributes greatly towards the character of the landscape and LILA, and often dominates the distant skylines. Therefore, this woodland would be highly sensitive to changes from new features and development in the landscape.”
- 10.57. The works undertaken to infill the bridge are largely underneath the structure and are within the railway cutting for the dismantled railway line. The works have revegetated

and replacement tree planting is proposed as part of the scheme to mitigate the trees lost when the works were undertaken.

- 10.58. It is considered that the works as already undertaken have had no impact on the character of the area, there has been revegetation of the external slope of the infill and the impact of the loss of the trees has been mitigated through the proposed replacement planting. The scheme has therefore been no significant detrimental impact on the character and quality of the landscape within the LILA as a result of the scheme and there has been no impact on the character of the area.
- 10.59. On this basis the scheme is considered to accord with Policies ENV1 and ENV15 of the Selby District Local Plan, SP18 of the Core Strategy as well as Paragraph 174 of the NPPF.

Impact on Residential Amenity

- 10.60. The bridge lies in the open countryside outside any village. There is a single dwelling to the west (Paddock House) and Station House to the north-west. The infill works have been completed on site and there are no impacts on the nearby dwellings in terms of residential amenity given that the works are on the former rail bed. The proposed tree planting either side of Station House and to the west of the bridge structure will also not impact on the amenity of the nearby dwellings. Therefore, there is no conflict with any local or national policies protecting residential amenity. Furthermore, it is considered that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

Drainage and Flood Risk

- 10.61. The site lies in Flood Zone 1, an area of low flood risk, and consultations have not highlighted any issues associated with flood risk or drainage as a result of the works that have been undertaken. The works sit within an embanked area and will not have in the view of Officers impacted on the drainage of any surrounding sensitive users or land use. Therefore, there is no conflict with local and national planning policies relating to drainage and flood risk.

Minerals and Waste

- 10.62. The site lies within an area identified on the Minerals and Waste Local Plan as being safeguarded for "building stone" and "limestone". The nature of the works are small scale and are not in an area where such resources could be extracted or exploited. As such the scheme is considered acceptable in terms of the protection of asset policies within the Minerals and Waste Local Plan.

Contamination

- 10.63. The site is identified as potentially contaminated due to its former railway use on the Council's records. Given the nature of the works then even if the application was not retrospective the most the Council would have sought in terms of conditions would have been an unexpected contamination condition to ensure any unexpected exposure to

contamination was effectively managed. Therefore, there is no conflict with local and national planning policies relating to land contamination.

Gas and Power Infrastructure

- 10.64. The site lies in a consultation area as a result of “national grid gas pipelines. Consultations have confirmed that there is no objection to the scheme from National Grid.

Other issues arising from Objections and Consultations

- 10.65. The comments received from third parties are set out in the report at Section 7.1 to 7.5 inclusive and these have been largely considered in the assessment above, the remaining matters are also noted and responded below.

Non-material matters raised in Objections – these are considered to be:

- i. setting of precedent.
- ii. that the materials used are not environmentally friendly.
- iii. that National Highways are not fit for purpose as an organisation.

Weight Limit on the Bridge – objections have stated that there is no need for a weight limit on the bridge. This is not a matter for the consideration of the planning application.

Natural Justice / Avoidance of Planning Application Process – the applicants made submissions under Part Q and this application was requested by the Council upon further consideration. The Applicants have submitted the application and worked with Officers to provide additional information. They have not avoided the process and have worked with the Authority. The application has been consulted upon and advertised in line with requirements.

Loss of Tourist Attraction – the bridge is not part of a footpath route or tourist provision, and the development has had no impact on tourism provision.

Need for Parliamentary Approval – the determination of the planning application is a matter for the responsible body, which is the Local Planning Authority.

Demolition of the Structure – the works have not demolished the structure.

Moving material to the site had an environmental impact – the works are now complete and given the scale of the development the impact would have been minimal and not for significant period of time to result in a significant impact on the limited receptors in the vicinity of the site.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The works are considered to be an engineering operation within the Green Belt which is appropriate development under Paragraph 155 of the NPPF. The works preserves the openness of the Green Belt given their minimal encroachment beyond the arch itself and given that the regraded area of land results in a vegetated embankment which blends into the landscape and surrounding context. There is also no conflict with

the purposes of the Green Belt given that the works are infilling of the underside of the railway bridge structure and although some infill is beyond the arch this is treated in such a manner as to not represent encroachment or be detrimental to the purpose of the Green Belt or to impact on it in terms of openness. It is also considered that the scheme has not negatively impacted on the character and appearance of the area or on the locally important landscape area.

- 11.2 There are no highways, landscape or ecological objections to the scheme and the replacement planting and ecological mitigation (by way of bat boxes) can be delivered via Condition. In addition, the longer-term protection of the replacement trees can also be secured via the servicing of a Tree Preservation Order once the trees are in situ.
- 11.3 The heritage impacts of the scheme have been fully considered and the impact has to be considered in the context of the structure not being listed. It is considered that the approach utilised by Network Rail to infill the bridge is acceptable in heritage terms and it is considered that the applicants have fully justified to the scheme to the satisfaction of the statutory consultees.
- 11.4 The ground level changes on the opposite side of the bridge have been in place for in excess of 10 years then on balance it is not considered that there is any loss of a pedestrian route and although some impact on the possibility to view the underside of the structure in part from the road (by hanging over the bridge) or by access the rail bed down the embankment is not considered that works result in the loss of a possible access route for pedestrian / cyclist / horses. As such, the scheme has not restricted a legally defined right of way and nor has the work prevented creation of such a linkage given that ground level changes have already occurred on the eastern side of the structure. On this basis the scheme is considered to be acceptable and to accord with local and NPPF policy.
- 11.5 Having also considered all relevant technical matters, outlined above, it is considered that the scheme is acceptable and there are no technical constraints that warrant the refusal of the application.
- 11.6 In addition, the proposal would not adversely impact persons protected under Section 149 of The Equalities Act 2010, noting that there is no change proposed to the parking situation in terms of disabled parking bays and an improvement to the street clutter and surfacing of the forecourts. Further, the application would not contravene any Convention Rights contained in the Human Rights Act 1990 in terms of the right to private and family life or the right to life.
- 11.7 On balance, taking into account all of the above material planning considerations, the proposal is considered acceptable development in accordance with both local and national planning policies and as such is recommended accordingly.

12.0 RECOMMENDATION

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

Recommended conditions:

01 The development hereby permitted shall not be carried out in accordance with the plans and specifications listed below:

- Location Plan (ref B38380DE-GG-0007 Rev P02)
- Proposed Site Plan (ref B38380DE-GG-0004 Rev 02)
- Proposed Sections (ref B38380DE-GG-0006 Rev 01)
- Proposed Elevations (ref B38380DE-GG-0005 Rev 01)
- Landscape Plan (ref B38380DE-CFH1/12-LAN-021-P02)

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Selby Local Plan Policy ENV1.

02 The approved Landscape Scheme and Ecological Mitigation (as shown on Plan ref B38380DE-CFH1/12-LAN-021-P02) shall be implemented within a period of six months of the date of this decision notice. Subsequently, any new trees, or plants, which within a period of ten years from the substantial completion of the planting die or are removed or become seriously damaged or diseased shall be replaced in the next planting season with the specified size and species as shown on the Plan.

Reason:

The replacement landscape scheme is required to address impacts on trees subject to TPO and the ecological mitigation is required to facilitate habitat creation having had regard to Policies ENV1 and of the Selby District Local Plan.

Target Determination Date: 16th October 2024

Case Officer: Yvonne Naylor, Yvonne.naylor@northyorks.gov.uk

Appendix A – Appendix A – Detailed Summary of Comments from HER Group and Save British Heritage

Appendix B - Proposed Site Plan

APPENDIX A

Detailed Summary of Comments from HER Group and Save British Heritage and third party comments

The following sets out the detailed summary of the comments from the HRE Group and save Britain's Heritage and other interested third parties.

HRE Group – **Object** on the grounds that:

- There was no evidence that the works were required as “emergency work”.
- Highways England have misused powers afforded to them under Part Q.
- As the works were to be retained over 12 months then Highways England should have been required to make an application and not allowed to undertake the works under permitted development
- A more sensitive approach should have been taken to the infill the bridge structure if such works were necessary, but this is not considered to be the case as the evidence from inspection reports does not indicate that there was any immediate risk and references other works that could be done to address issues that were evident with the bridge.
- There is a weight limit that should have been considered in assessing if it was necessary to undertake such infilling to the structure.
- The structure is of historic value which has not been accounted for in the works that have been undertaken.
- The works have impacted on trees (some of which are already lost) and the future of others have been jeopardised as a result of the works.
- The works have prevented the route being a potential option for Sustrans routes in the area as the opportunity to use the route is lost as a result of the works that have been undertaken.
- The scheme is not acceptable in Green Belt terms as there are no very special circumstances to justify the development.
- The development is contrary to the approach of the Selby District Core Strategy in terms of sustainable development, design, character of the area and the consideration of impacts on heritage assets.
- The development is contrary to the approach of the NPPF in terms of conservation and enjoyment of heritage assets, the consideration of schemes for works to assets and the impact on the assets of the works.

Additional comments of objection from the HRE Group received on the 5th August 2024 and on the 13th September 2024. The comments of the 5th August 2024 can be summarised as follows:

- The previous backfilling of the approach cutting obscured the bridge's north-west elevation and parts of the abutment faces, but - in the same way that NH's concrete infill is “fully reversible” - the loose material used to backfill the cutting could - from a practical perspective - also be removed, fully revealing the bridge.
- Maintain that the bridge could at least meet some of the listing criteria.
- The previous backfilling of the approach cutting - which included a slope extending beneath the span - did not prevent access under the arch as is demonstrated.

- by Jacobs' inspection report from 10 October 2017, which includes several photographs of the abutments and arch soffit taken by an engineer standing on the slope. Access under the arch has only been prevented by NH's unauthorised development of 2021.
- NH fails to make clear that the engineering and historical circumstances at Congham bridge were very different to Rudgate bridge.
- The scheme remains unjustified National Highways have utilised Part Q incorrectly.
- NH should have properly evaluated the likelihood of overloading before carrying out the works, so as not to burden the taxpayer with unnecessary expense and inflict harm on a heritage asset. Given the prevailing constraints, that likelihood was extremely low.
- The recorded defects/issues are commonplace and easily remedied at modest cost. The bridge was in fair condition and certainly not a cause for concern.
- There were no "very special circumstances" at Rudgate that warranted the infilling of a historic bridge within the green belt, whilst felling protected trees without authority. There is no evidence that safety was in any way a driver for the scheme despite it being undertaken unlawfully under emergency PD rights.

The comments of the 13th September 2024 can be summarised as follows:

- The submissions made by National Highways (NH) are still inaccurate.
- The arguments made on whether the structure is worthy of listing made by NE are not accepted.
- The September submissions by NH are inaccurate and mis-represent the position of the Heritage Group.
- Restate view that the misuse of permitted development rights for non-emergency works that were always intended to be permanent is a relevant consideration in determining this planning application.

Save Britain's Heritage – **Object** on the grounds that:

- The bridge to be a non-designated heritage asset of high local importance and the impact of the infilling to be substantially harmful in heritage terms without adequate justification provided for this harm.
- The total infilling without planning permission is poor planning practice, reflecting widespread concern over the applicant's unjustified and unsympathetic approach to managing and maintaining historic structures like this and elsewhere in the country.
- This application fails to protect the historic environment and should be refused.
- We support the HRE Group's objection to the application, and their expert opinion that this is an important non-designated heritage asset (NDHA) built by a pioneering railway engineer. The bridge is a historically significant survival from the Harrogate to Church Fenton line which was closed in the 1960s as part of the Beeching cuts.
- The scale of harm or loss is the total loss of a NDHA whose local heritage significance is considerable. Accordingly, SAVE considers that infilling is a disproportionate approach which cannot satisfy the balancing exercise of NPPF Paragraph 209.
- It is considered that previous inspections did not indicate structural concerns to warrant infilling and there is insufficient justification for such an extreme action to

outweigh the harm caused and fails to comply with heritage policies and tests set out in the NPPF.

- The application does not enhance or better reveal the bridge or the historic route of the former railway line and so fails to remain sympathetic to local character and history, as outlined within Paragraph 135 of the NPPF and contravenes Policy SP18 of the Selby District Core Strategy Local Plan.
- The application does not conserve the distinct character of the district, which is enhanced by this historically important survival from the Church Fenton-Harrogate line. The application fails to comply with local and national planning policy.

Third party comments include:

Principle of Development

- The works conflict with green belt policy and are contrary to Paragraph 152 of the NPPF as there are no very special circumstances.
- The scheme is contrary to SP2, SP3, SP4, SP13, SP18 and SP19 of the Selby Core Strategy Local Plan.
- The supposed justification put forward retrospectively by Highways England is at odds with its initial assessment of the state of the bridge, from which one might reasonably infer that it is acting in bad faith.

Heritage

- All buildings and structures of this age (1846) are potentially Non Designated Heritage Assets and therefore a material consideration in terms of any planning application.
- The skew design of the bridge is of significant engineering interest and is a special characteristic of the bridge and it should have been repaired so also could be inspected.
- The application documents fail to consider the engineering implications of infilling suggesting the work is 'To prevent further deterioration' when in fact the work has covered up the main engineering element 'The Arch'.
- Heritage or non-heritage assets are an irreplaceable resource and should be conserved in a manner appropriate and the works have resulted in the loss of an asset and are vandalism by a public body and works should be reversed.
- The scheme is contrary to Paragraph 195 of the NPPF which recognises 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."
- The scheme is contrary to Policy SP18 of the Core Strategy and Paragraph 209 of the NPPF in terms of the impact of the heritage asset.
- Would have been far more economical to simply maintain the structure and also to preserve it for historical purposes and possible future use.
- Details of the stonework which is now entombed in concrete is unavailable for study as a result of this application. There is no provision in the works to protect the stonework which is stated to have moderate value.
- This was wilful, underhand and duplicitous damage to a historical artefact. The bridge should be sympathetically repaired as an important heritage asset, restoring its availability for any possible repurposing.

- This much admired bridge is a near unique example of its designer's work and is on a minor track with minimal road traffic.
- Unnecessary infill work to a structure of archaeological interest .
- All that was needed was a new fence.

Landscape and Character of the Area

- The scheme is contrary to Paragraph 135(c) of the NPPF which states that "Planning policies and decisions should ensure that developments...are sympathetic to local character and history, including the surrounding built environment and landscape setting..."
- Ugly and brutal infilling in a green belt area impeding routes for wildlife, protected trees felled illegally.

Highways

- Works impact on highways
- The infill also prevents the use of the bridge in future sustainable transport projects / recreational routes for the benefit of all and under SUSTRANS.
- There is no need for a 32ton limit on this bridge.

Trees

- They have illegally removed trees and works have impacted on others that remain as a result of changes in ground levels.
- They also cut down and/or damaged trees within a tree preservation area.
- The contractor felled and damaged trees in an area protected by Tree Preservation Orders, without authority.

Ecology

- Infilling the bridge prevents wildlife passing under it.

Residential Amenity

- Works impact on residential amenity.

Use of Permitted Development Rights

- The undertaking of the works using Permitted Development Rights is abuse of authority – the works were not emergency works and they saw it as a liability the works were always going to be permanent and took place 5 months after contact was made with the Council.
- No evidence provided that the works were needed to be undertaken as “emergency works.”
- Inspectors who visited the site prior to the works only recommended fence repairs not these works they were not emergency works and were not required.
- National Highways have abused their position and wasted money in an irresponsible fashion and should undo the damage they have done.
- Works were not intended to be temporary.
- Urge the authority to ignore the extant works and treat this application as applicable to the structure prior to the infill. The applicant should gain no benefit from having flouted or manipulated the planning system; indeed perhaps such behaviour should weigh against the application so as to deter repetition.

Other Matters

- Support the comments of the HER Group on the application.
- Works not in the best interest of natural justice.
- The application represents an underhand way of dealing with asset management that in no way benefits the local community and wastes thousands of pounds of money from the public purse – was never temporary or emergency works.
- National Highways have caused untold damage to the environment and wasted a huge amount of public money on a completely unnecessary dumping of concrete under a heritage structure, under false pretences.
- Once again NH has ridden roughshod over local opinion and planning regulations to destroy important industrial heritage.
- Baseless excuses they've provided must not be allowed to protect them from the fact than they've committed a serious act of vandalism, and lied to the public and the Local Authority in doing so.
- Environmentally the bridge has a certain embodied energy, (energy taken to quarry, manufacture and construct the bridge) that has been put at risk by the infilling and bringing forward the potential need to demolish the bridge at considerable further energy requirements, infilling is therefore not a sustainable solution.
- Granting permission must be opposed on grounds of proposing an inappropriate engineering solution that is not in the public interest.
- If allowed this will set a precedent.
- A message needs to be given to Highways England that they cannot get away with their high handed "what are you going to do about it" attitude.
- This is a tourist attraction and site for walking groups it is a shame that the bridge was infilled.
- The bridge should be restored without further damage to it or the protected trees surrounding it.
- The materials used are not environmentally friendly
- There was nothing wrong with the bridge structurally, under which a public route of access existed and which the infilling has blocked.
- National Highways is not fit for purpose – look what they are doing to Stonehenge.
- National Highways have done this before at Great Musgrave Bridge
- this will mean any hope of re-establishment of line is ended.
- Conservative repair would have been far more economical.
- Sympathetic reinstatement/refurbishment of the structure should be undertaken to maintain the structure for future amenity , all at lower cost and commensurate with lower loadings than considered by Highways England
- Their own advisors stated that the bridge only needed a fence repair.
- Given that we are moving to a low/nil carbon future, then redundant railway routes are necessary to keep clear of obstructions to allow for future use by cyclists, pedestrians and horse riders.
- If an act of parliament is required in order for a railway line to be created, operated or closed. Then surely an act of parliament is required for any part of a former railway line to be restored back into the condition it would have been in, prior to the coming of that railway, that would prevent any potential future reopening as a railway or other use along that particular linear route that has been created.


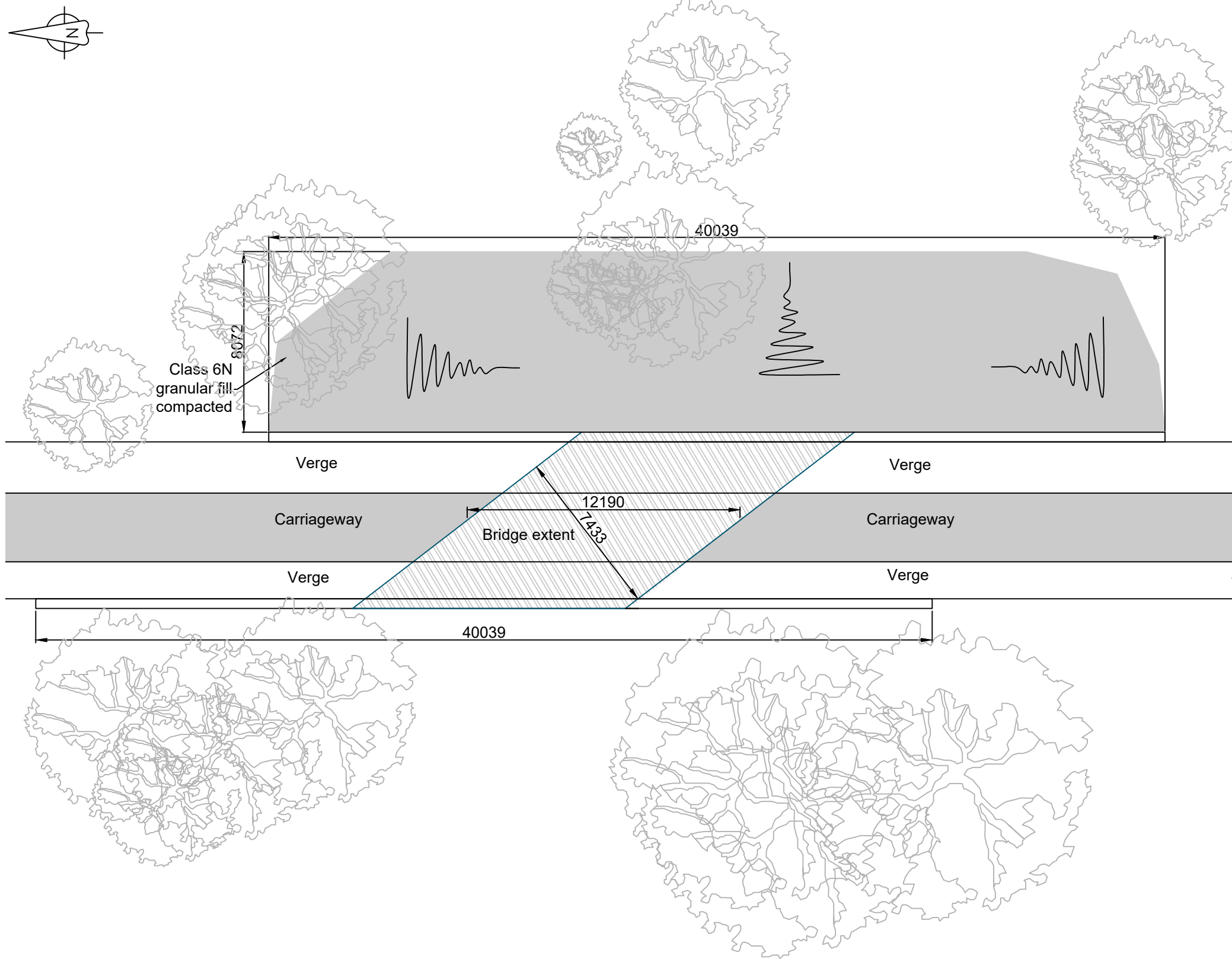
- Since this application seeks permission to infill the land subject to this application (under the bridge) to prior railway levels thus reversing the creation of this linear route granted by an act of Parliament. Therefore of the opinion that Parliamentary approval may be required!
- This bridge sits upon a line that I believe should be brought back into use to facilitate a rail service between Leeds and Wetherby for both passengers and freight. The amount of line that OFFICIAL could be reused for this purpose and the amount of new line that would be required, remains to be seen. However, any line would likely use this section of line that this bridge sits upon, between the West side of Tadcaster and the East side of Wetherby which is relatively intact!
- Moving material to the site to undertake the works will have environmental impacts.
- Unnecessary demolition of structure.

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Notes

1. This drawing is not to be used in whole or part other than for the intended purpose and project, as defined on this drawing. Refer to the contract for the full terms and conditions.
2. All dimensions are in millimetres unless stated otherwise.
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4. This drawing is based on historical drawings provided by HRE as appropriate.
5. This drawing is to be read in conjunction with B38380DE-GG-0005 and 0006.
6. For precise details of the existing trees, those additional trees to be removed and the indicative location of replacement trees, please refer to Landscape Plan Ref: B38380DE-CFH1/12-LAN-02.

Legend

 Existing trees / Groups of trees


PLAN
Scale 1:200 @ A3

PLANNING

02	06/03/2024	Planning	CC	AS	AS	NR
01	26/06/2023	Planning	CC	AS	AS	NR
Rev	Rev. Date	Purpose of revision	Orig	Check'd	Rev'd	Apprv'd
Jacobs 20 GEORGE HUDSON STREET, YORK, YO1 6WR, ENGLAND TEL: +44(0)1904 924 950 WEBSITE: WWW.JACOBS.COM						
Client Historical Railways Estate on behalf of the DfT						
Project HRE Works Framework						
Drawing title STRUCTURE CFH1/12 RUDGATE ROAD BRIDGE STRUCTURAL INFILLING As Built Plan						
Drawing status Planning						Suitability
Scale	1:200		DO NOT SCALE			
Jacobs No.	B38380DE/GG				Rev	02
Client No.	CFH1/12					
Drawing number B38380DE-GG-0004						

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North Yorkshire Council

Community Development Services

Selby and Ainsty Area Planning Committee

9TH OCTOBER 2024

ZG2023/1307/FUL - CONVERSION OF AGRICULTURAL BUILDINGS TO 3 C3 DWELLINGHOUSES, ALONGSIDE ASSOCIATED DEMOLITION WORKS AT WOODBINE GRANGE, MAIN STREET, RYTH, LS24 9ED

ON BEHALF OF NORTH YORKSHIRE COUNCIL

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

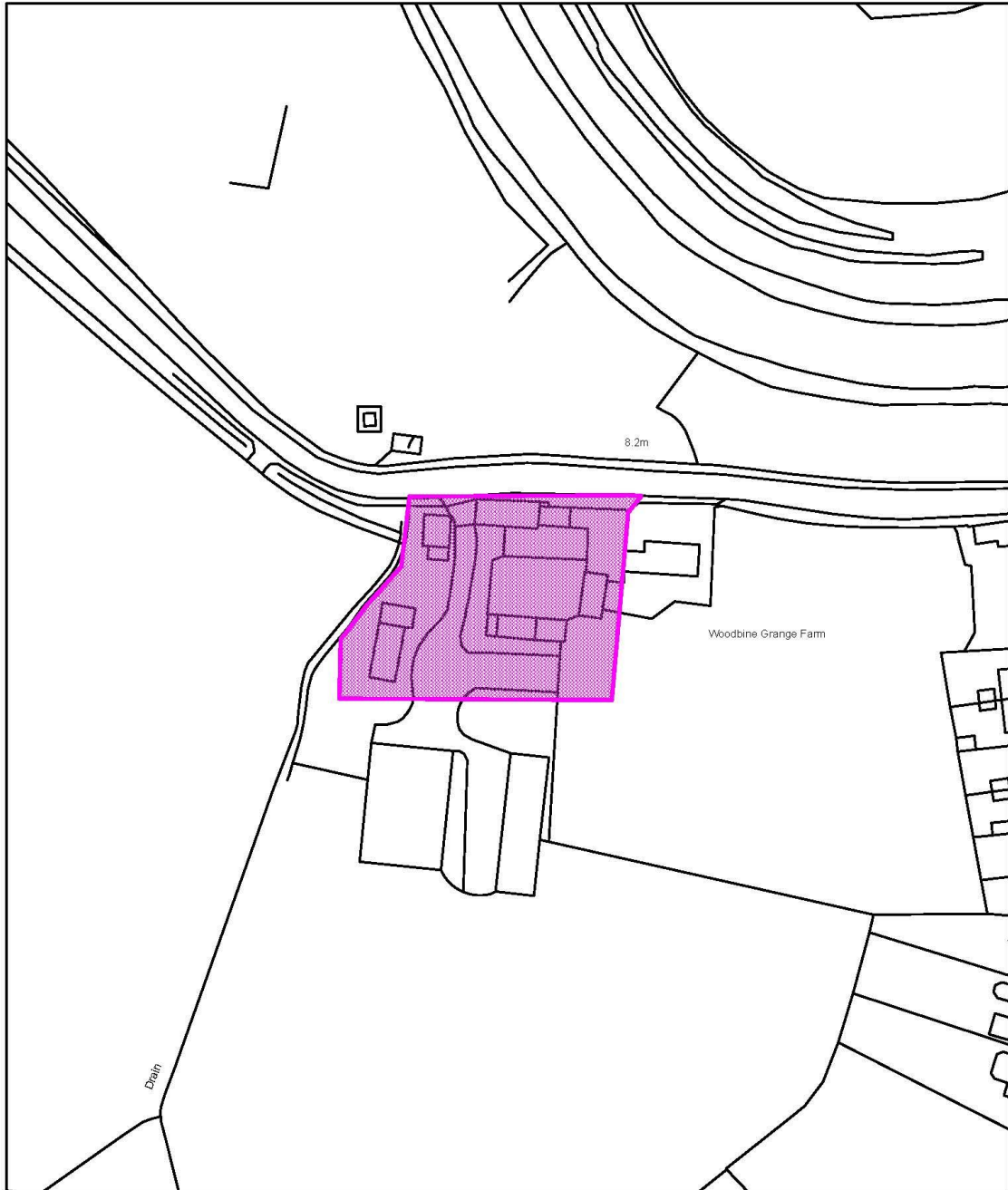
- 1.1 To determine a planning application for the redevelopment of the former agricultural site. The development would involve the demolition of one building and the conversion of three barns to create three detached dwellings at Woodbine Grange, Ryther.
- 1.2 The application has been brought to Planning Committee as the application has been submitted by North Yorkshire Council.

2.0 SUMMARY

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

- 2.1. The application is seeking permission for the redevelopment of the site to convert three former agricultural buildings to three detached dwellings. The proposed development would include the demolition of an existing building as well as alterations to the access to the site and landscaping.
- 2.2. The application site lies outside the development limits of the settlement of Ryther and is therefore located within the open countryside. The settlement of Ryther is identified as a secondary village in the Core Strategy. The site lies approximately 100 metres to the west of the edge of the village.
- 2.3. The scheme is considered compliant with local and national policy in that it reuses an existing building, involves a sensitive conversion that respects the character and form of the original buildings and provides a development which causes no harm to the character and appearance of the wider countryside.
- 2.4. The proposal is also considered to be acceptable in respect of its impact on residential amenity of the occupants of neighbouring properties and proposed occupiers, highways safety, flood risk and drainage, ecology, contaminated land and minerals and waste.

Woodbine Grange, Main Street, Ryther
ZG2023/1307/FUL



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1:1,250
Do not measure from plan

3.0 PRELIMINARY MATTERS

3.1. Access to the case file on Public Access can be found here: - [ZG2023/1307/FUL | Conversion of agricultural buildings to C3 dwellinghouses, alongside associated works, at Woodbine Grange, Ryther | Woodbine Grange Main Street Ryther Leeds North Yorkshire LS24 9ED \(selby.gov.uk\)](#)

3.2. The following planning history is relevant:

ZG2023/0997/ATD (REFUSED – 15/11/2024) Prior notification for the change of use of agricultural building to 3 No dwellings (Use Class C3) and associated operational development.

The prior notification application was refused for the following reasons:

01. On the basis of the submitted information, the proposal includes development that would go beyond the scope of building operation. The proposal would not therefore comply with criterion Q.1 (i) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

02. The proposed curtilage of each of the proposed dwellinghouses would exceed the Interpretation of Part 3 Paragraph X (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

4.0 SITE AND SURROUNDINGS

4.1. The application site lies outside the development limits of the settlement of Ryther and is therefore located within the open countryside. The site lies approximately 100 metres to the west of the edge of the village.

4.2. The application site covers approximately 0.3 hectares of land, comprises of part of Woodbine Farm and consists of four traditional brick and tile agricultural buildings, site access and hardstanding. The farmhouse is located immediately to the east of the site.

4.3. The application site is bound by agricultural fields to the south, east and west with the B1223 running east-west along the northern boundary. North of the highway is the banks of the River Wharfe.

5.0 DESCRIPTION OF PROPOSAL

5.1. The application is seeking approval for the conversion of three agricultural buildings to create three dwellings. The proposed development would also include the demolition of the building described as 'Building 4' in the courtyard and additional hardstanding and landscaping within the site. An attention tank and package treatment plant are proposed to the west of the access road.

6.0 PLANNING AND POLICY 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 the 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:
- Selby District Core Strategy Local Plan (adopted 22nd October 2013)
 - Those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State, and which have not been superseded by the Core Strategy
 - Minerals and Waste Joint Plan, adopted 2022

Emerging Development Plan – Material Consideration

- 6.3. The Emerging Development Plan for this site is:
- Selby District Council Local Plan publication version 2022 (Reg 19)

On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. The responses were considered. In order to fully address the responses to this consultation, a revised Publication Local Plan 2024 was consulted on between 8 March and 19 April 2024. The responses have been considered and the next stage is to move to submission of the plan for examination.

- 6.4. In accordance with paragraph 48 of the NPPF, given the stage of preparation following the consultation process and depending on the extent of unresolved objections to policies and their degree of consistency with the policies in the NPPF, the policies contained within the emerging Local Plan can be given weight as a material consideration in decision making and, if relevant, will be referred to in the body of the report.

- The North Yorkshire Local Plan
- 6.6. 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

- 6.7. Relevant guidance for this application is:
- National Planning Policy Framework 2023 (NPPF)
 - National Planning Practice Guidance
 - National Design Guide 2021
- 6.8. On 30 July 2024, the Government announced in a Ministerial statement its intention to reform the planning system, including making changes through a Planning and Infrastructure Bill in the first session and revising the NPPF with the key aim of delivering the Government's commitment to build new homes. Such Ministerial statements can be material to the determination of planning applications. The proposed revisions to the NPPF were subject to consultation which closed on the 24 September

2024. At this time, whilst the Ministerial statement is acknowledged, it is noted that the December 2023 iteration of the NPPF remains until such time as revised legislation is passed and / or policy is published.

7.0 CONSULTATION RESPONSES

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

7.2. **Ryther Parish Council** - Objected to the proposed development due to concerns relating to flooding. The comments received are as follows:

The existing farmyard has surface water drains leading directly to the river Wharfe which are in poor state of repair and not fit for purpose. This needs to be fully investigated by CCTV and improvements made.

If the village surface water drains are to be utilised then the pumping chamber (located at the junction of the Main Street and Mill Lane) which is already overwhelmed during river flooding needs to be upgraded with suitable larger pumps.

7.3. **NYC Environmental Health** - No objection. Recommended a condition is attached to any permission granted to control hours of work during construction.

7.4. **Contaminated Land Consultant** – No objections. Recommended conditions to be attached to any permission granted relating to the submission of a site investigation and risk assessment, remediation strategy, verification and the reporting of unexpected contamination.

7.5. **NYC Ecology** - No objection. The application is accompanied by a thorough ecological assessment with surveys undertaken to the industry standard. The ecologist is satisfied that there will be no ecological impacts, provided that the measures set out in section 5.2 of the ecology report are adhered to during and following the works. This can be secured as a condition.

7.6. **Environment Agency** - Removed previous objection. The finished floor levels proposed are not above the 1% AEP plus 20% climate change, we would have ideally requested 300mm above this flood level. However, in this case, we agree that 300mm of flood resistance measures above the 1% AEP plus 20% climate change is sufficient to ensure that the development remains safe and dry. Recommended that a condition that the development is carried out in accordance with the Flood Risk Assessment submitted.

7.7. **Internal Drainage Board** - No objections. Recommended a condition relating to the disposal of surface water and foul sewage and for a 9m easement strip along the bank top of the drain.

7.8. **NYC Highways** - No objections. Recommended three conditions relating to the access to the site, perking and the submission of a Construction Management Plan.

Local Representations

7.9. The application was advertised by site notice and press notice. The press notice was published in the Selby Times on 08/02/2024. No letters of representation were received during the statutory consultation period.

8.0 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

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

9.0 MAIN ISSUES

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

- The Principle of Development
- Design and Impact on the Character and Appearance of the Area
- Residential Amenity
- Highways
- Drainage and Flood Risk
- Impact on Nature Conservation and Protected Species
- Contaminated Land
- Affordable Housing
- Minerals and waste
- Waste and Recycling Facilities

10.0 ASSESSMENT

Principle of Development

10.1. Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "*when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*" and sets out how this will be undertaken. It is therefore consistent with the guidance in Paragraph 11 of the NPPF.

10.2. The site is located outside of the development limits of the settlement of Ryther and, as such, is located within countryside as defined by the Selby District Local Plan 2005. It is noted that Ryther is identified as a secondary village in the Core Strategy, which are described as generally much smaller villages and less sustainable with less opportunities for growth.

10.3. Policy SP2A(c) of the Core Strategy states that "*Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.*"

10.4. Policy H12 of the Selby District Local Plan specifically relates to conversion to residential use in the countryside and states that such proposals would be acceptable

in principle subject to a number of criteria. Criterion (1) of Policy H12 allows proposals for the conversion of rural buildings to residential uses provided *“it can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality”*.

- 10.5. Paragraphs 82-84 of the NPPF seek to support housing development in rural areas that reflect local needs, that is sustainably located and avoids isolated homes. In particular, Paragraph 83 of the NPPF promoting sustainable housing where it will enhance or maintain the vitality of rural communities.
- 10.6. The approach taken by the NPPF does not apply the more onerous test set out in H12(1) or a preference for employment use in SP2A(c). It supports sustainable housing in rural areas and the reuse of these buildings in this location close to the existing settlement for residential use would contribute to the vitality of the rural community. It is, therefore, considered that criterion (1) of Policy H12 of the Selby District Local Plan should be given limited weight and the applicant is not required to demonstrate the building cannot be used for business use. Further, for the same reason, the preference for employment uses cited by Policy SP2A(c) of the Core Strategy is also given limited weight.
- 10.7. Criterion (2) of Policy H12 *states “the proposal would provide the best reasonable means of conserving a building of architectural or historic interest and would not damage the fabric and character of the building”*. The proposed conversion of the building is considered to be sympathetic and would not result in any significant external alterations that would damage the character of the building.
- 10.8. Criterion (3) and (4) of Policy H12 require that *“the building is structurally sound and capable of re-use without substantial rebuilding”* and *“the proposed re-use or adaptation will generally take place within the fabric of the building and not require extensive alteration, rebuilding and/or extension”*.
- 10.9. In terms of Criterion (3), from the site visit that was conducted it was noted that the building appeared to be in a good condition and would be capable of conversion without extensive rebuilding. Furthermore, the application was accompanied by a Structural Engineers Report (dated 3rd July 2023) which concluded that *“Each of the barns at Woodbine Grange can be made structurally suitable for conversion to domestic properties, however, particular areas require further survey/investigations and remedial/reconstruction works.”*
- 10.10. In terms of Criterion (4), the proposed development would result in relatively minor alterations to the existing building and would not require any extensive alterations to the building. The proposal does not propose any extensions to the existing building.
- 10.11. The remaining criteria of Policy H12 relate to the impacts of the proposed conversion and extension and will therefore be assessed later in this report.
- 10.12. Having regard to the above, the proposal would be acceptable in principle as it represents appropriate conversion in the countryside in accordance with local and national planning policies, having taken into account the conflict of the local policies with the NPPF.

Section 149 of The Equality Act 2010

- 10.13. Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.14. The proposed development would not result in a negative effect on any persons of or persons with The Equality Act 2010 protected characteristics and could have a positive impact in terms of offering greater variety of dwellings in the local area to individuals falling in one of the relevant protected characteristics.

Design and impact on the character and appearance of the area

- 10.15. Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 of the Local Plan and Policy SP19 of the Core Strategy. These are in accordance with Paragraph 135 of the NPPF, which states that amongst other criteria, developments should add to the overall quality of an area, be visually attractive, sympathetic to local character and history, including the surrounding built environment and landscape setting whilst not preventing or discouraging innovation or change.
- 10.16. The application site is located at the entrance of the village of Ryther, when travelling from the west towards Cawood on the B1223 highway. The site is made up of a cluster of seven agricultural buildings associated within Woodbine Grange Farm. The farmhouse lies immediately to the west of the application site and there are two larger agricultural buildings immediately to the south of the application site. These are all within the same ownership as the application site.
- 10.17. The application proposes the demolition of one of the existing buildings (building 4 on the Site Plan 15026 00025_APP_ZZ_00_DR_A_A010_ P1) and the conversion of barns 1, 2 and 3, as labelled on the Site Plan, to three detached dwellings. The proposed development would also include works to the existing access, parking and turning areas as well as the creation of gardens for each of the proposed dwellings.
- 10.18. Barn 1 (plot 1) is a two-storey redbrick barn with red pantile roof and single storey projection to the east elevation. The building fronts on to the main highway. The building measures 22 metres in width and has a maximum depth of 6.4 metres. The conversion of the building would include internal and external alterations including the installation of a first floor, the installation of 5no. roof lights to the south elevation roof slope and the installation of replacement windows and doors.
- 10.19. Barn 2 (plot 2) is a two-storey redbrick barn with clay pantile roof and is located to the southeast of plot 1. The building measures 10.9 metres in width by 5.2 metres in depth. The proposed plans show that two rooflights would be inserted in the roof (one on each roof slope). The plan also shows that the existing windows and doors would be

replaced. Internally the floor plan shows the layout of the new dwelling. It shows that the new dwelling would have three bedrooms in total. The gross internal area (GIA) would be approximately 82.2 square metres, which is fractionally under the prescribed minimum space standards. The Technical housing standards guidance states that a 3 bedroom, two-storey dwelling should have a GIA of more than 84 square metres. Given that the development is for the conversion of an existing building and that the difference is relatively small it is considered that the proposed conversion of the building to a three-bed dwelling would be acceptable.

- 10.20. Barn 3 (plot 3) is a single-storey building located to the south of plot 1 and to the southwest of plot 2. Again, the barn is redbrick with a pantile roof. The building measures 20 metres in width by 5.6 metres in depth. The proposed external alterations include the installation of new windows and doors.
- 10.21. The external alterations are considered to be relatively modest and would not negatively impact on the character of each building. The proposal would include works to the land surrounding the existing buildings to provide gardens and parking spaces for each of the dwellings. This would include the erection of fences, additional hardstanding and tree planting, which would all lead to further domestication of the site. However, this is not considered significant, and Permitted Development Rights could be removed to control any further development on site.
- 10.22. Given the above, it is considered that the proposal would not have a significant impact on the character and appearance of the area. As such, the proposed development accords with Policy ENV1 and H12 of the Selby District Local Plan with the exception of criterion 1, and Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 10.23. Saved Local Plan Policy ENV1(1) requires consideration to be given of the effect of the development on the amenity of adjoining occupiers. The key considerations in respect of residential amenity are the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 10.24. With regards to overlooking, Plot 1 would have 4 windows at first floor level. 1 window on the north elevation, which faces towards the highway; 1 window to the west elevation facing out towards the neighbouring field and 2 windows to the south, which would face out over the garden area and towards plot 3. There is a separation distance of more than 21.3 metres between the two buildings (Plots 1 & 3), which is considered to be acceptable. Furthermore, a 1.8-metre-high fence would be erected between the two plots which would provide additional screening. Plot 2 would have 4 windows (2 to the front (west) and 2 to the rear (east) elevations). The windows to the front elevation would face out over the proposed parking area and garden space. The windows to the rear would face out towards the garden of the farmhouse. It is considered that there would be some potential for overlooking. However, this would not be considered significant. Plot 3 would be single storey only and, as such, potential for overlooking is considered to be limited.

- 10.25. With regards to overshadowing, the existing buildings are well spaced and any potential for overshadowing would be minimal.
- 10.26. Each of the proposed three-bed dwellings would have sufficient outdoor amenity space to cater for families.
- 10.27. Having regard to the above, it is considered that the proposal would not have any significant adverse impact on the amenities of the occupiers of any neighbouring residential properties. The amenities of the adjacent residents would therefore be preserved in accordance with Policy ENV1 (1) of the Selby District Local Plan.
- 10.28. In light of the above, it has been demonstrated that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to private and family life.

Impact on Highways

- 10.29. Policies ENV1(2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.
- 10.30. The proposed site plan shows that the proposed development would use both of the existing accesses to the site and each plot would have off-street parking provision for 2no. motor vehicles. The Site Plan also shows that there would be 3no. parking spaces provided for the neighbouring Farmhouse, which is outside the red line. NYCC Highways has been consulted on the application and have raised no objections to the proposed scheme subject to appropriate conditions attached to any permission granted. These conditions include control over the set out and construction of the access, the requirement to provide turning and parking prior to the use becoming operational and finally the need for a Construction Management Plan. All 3 are detailed within the recommendation.
- 10.31. Given the above it is considered that the proposal complies with policies ENV1(2), T1 and T2 of the Local Plan and Paragraph 115 of the NPPF with respect to the impact on the Highway network.

Drainage, Flood Risk and Climate Change

- 10.32. National and local planning policy requires planning proposals to take account of flood risk, drainage, climate change and energy efficiency. Relevant local policies in this regard are SP15, SP16 and SP19 of the Core Strategy, which are in accordance with national policy in the NPPF. In particular, paragraph 165 seeks to direct inappropriate development away from areas at risk of flooding (whether existing or future). It seeks to achieve this by requiring the application of the sequential test (paragraph 168) and the exception test (paragraph 170). Where it is necessary to build in high risk areas, the development should be made safe for its lifetime without increasing flood risk elsewhere (paragraph 173).

- 10.33. The application site is located within Flood Zone 3 which is at high probability of flooding. NPPF paragraph 174 States that "Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59." The proposed development involves the conversion of three agricultural buildings to three dwellings. As such, the sequential and exception tests are not required to be applied in this instance.
- 10.34. A Flood Risk Assessment (FRA) was submitted with the proposal providing mitigation measures as appropriate. The Environment Agency was consulted on the development and initially raised objections to the proposal due to the lack of an acceptable FRA. Further details were submitted by the applicant and the Environment Agency were consulted again. They subsequently removed their objection. And provided the following details "The finished floor levels proposed are not above the 1% AEP plus 20% climate change, we would have ideally requested 300mm above this flood level. However, in this case, we agree that 300mm of flood resistance measures above the 1% AEP plus 20% climate change is sufficient to ensure that the development remains safe and dry." Given this the FRA is considered to be acceptable. The proposed development is therefore in accordance with the advice contained within the NPPF and NPPG.
- 10.35. In terms of drainage, a Planning Statement was submitted along with the application, which provides details of the proposed drainage. The Planning Statement proposes that the new dwellings would be connected to the surface water drainage system and that foul water would be disposed of via a package water treatment plan.
- 10.36. Yorkshire Water and the Ainsty Internal Drainage Board and have been consulted on the proposals. Yorkshire Water made no comments to the proposal. The Ouse and Derwent Drainage Board raised no objections to the proposals subject to a condition requiring a detailed scheme of drainage to be agreed.
- 10.37. The proposal is therefore acceptable in respect of drainage and flood risk and therefore accord with local and national planning policy.

Impact on Nature Conservation and Protected Species

- 10.38. Policy ENV1(5) of the Local Plan states that proposals should not harm acknowledged nature conservation interests or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. Policy SP18 of the Core Strategy seeks to safeguard and enhance the natural environment and promote effective stewardship of the District's wildlife. These policies should be given significant weight as they are consistent with the NPPF.
- 10.39. An Ecological Impact Assessment (dated October 2023) was submitted along with the application. The County Council's Ecologist was consulted on the proposal and raised no objections to the principle of the development and recommended that a condition is attached for any development to be carried out in accordance with the mitigation measures as set out in section 5.2 of the ecology report. These include introducing a native planting scheme to target night-flying insects and to compensate for the loss of

on-site foraging resources, introducing a sensitive lighting scheme to avoid indirect disturbance to foraging and commuting bats, birds and small mammals that may be using the area and the report advised that demolition works should be carried out outside of the nesting season.

- 10.40. It is noted that the application was submitted before the new Biodiversity Net Gain (BNG) measures came into force. Whilst SP18(c) seeks to produce a net gain in biodiversity by designing in wildlife and retaining the natural interest of a site where appropriate, it is noted that the proposal is for conversion of existing buildings to an alternative use and therefore is not considered appropriate in this instance.
- 10.41. Given the above, it is therefore considered that the proposal would accord with Policy ENV1 of the Local Plan, SP18 of the Core Strategy and the NPPF with respect to nature conservation.

Land Contamination

- 10.42. Policies ENV2 of the Local Plan and SP18 and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight given their compliance with the NPPF and requirements contained therein at paragraph 180 that seek planning proposals to prevent the contribution to or unacceptable risk from land contamination.
- 10.43. The application site is not identified as being potentially contaminated in the Council's record. However, all residential development is considered to be more vulnerable and, as such, the Council's Contaminated Land Advisor was consulted. No objections to the proposal were raised. However, four conditions relating to undertaking a site investigation, producing a remediation strategy and reporting unexpected land contamination were recommended to be attached to any permission granted.
- 10.44. Given the above, it is considered that the proposal would be acceptable in regard to contamination on the site and in accordance with Policy ENV2 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and advice in the NPPF.
- 10.45. In light of the above, it has been demonstrated that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to life.

Affordable Housing

- 10.46. Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the district. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha, a fixed sum will be sought to provide affordable housing within the district. However, the NPPF is a material consideration and states at paragraph 65 –

“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”.

10.47. Major development is defined in Annex 2: Glossary as *“For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”*. The application is for the conversion of buildings into 3 dwellings and as such in the light of the West Berkshire Decision and paragraph 65 of the NPPF, it is not considered that affordable housing contributions as required by Policy SP9 C can be sought.

Minerals and waste

10.48. The application site is located within an area identified for the safeguarding of mineral resources, specifically sand gravel. Relevant policies in relation to the NYCC Minerals and Waste Plan 2022 are S01, S02 and S07, which reflect advice in the Chapter 17 of the NPPF. The policies seek to protect future mineral resource extraction by safeguarding land where the resource is found and avoiding such land being sterilised by other development.

10.49. Certain types of development are regarded as exempt development. This includes redevelopment of previously developed land not increasing the footprint of the former development. As such, it is considered that the proposed development meets the exemption criteria.

Waste and Recycling Facilities

10.50. With respect to Waste and Recycling, a contribution for such provision would not be required for a scheme of this scale.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. The proposed conversion of former agricultural buildings to 3 dwellings within the countryside is acceptable in principle as it would deliver sustainable housing in existing built form close to an existing settlement that would contribute to the vitality of the rural community. This accords with the provisions of local and national policy to allow sensitive conversions to residential use after applying limited weight to Policy H12(1) and the preference for employment reuse in Policy SP2A(c) which are not in accordance with the NPPF.

11.2. The proposed conversion is sensitive to the character and appearance of the original buildings and will not have a detrimental effect on the character and appearance of the area or residential amenity of the occupants of neighbouring properties.

11.3. The conversion is also acceptable in terms of its impact on highway safety, flood risk and drainage, ecology, contaminated land and minerals and waste. The application is therefore considered to be in general accordance when taken as a whole with Policies ENV1, H12 and T1 of the Selby District Local Plan, Policies SP1, SP2, SP4, SP15 and SP19 of the Core Strategy, and the advice contained within the NPPF.

12.0 RECOMMENDATION

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

Recommended conditions:

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

Reason:

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

02. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

15026 00025_APP_ZZ_00_DR_A_001 P1 Location Plan
 15026 00025-APP-ZZ-00-DR-A-020 PL2 Proposed Site Plan
 15026 00025-APP-ZZ-XX-DR-A-A120-PL2 Proposed Floor Plans & Elevations (Plot 1)
 15026 00025-APP-ZZ-XX-DR-A-A121-PL2 Proposed Floor Plans & Elevations (Plot 2)
 15026 00025 APP-ZZ-XX-DR-A-A122-PL1 Proposed Floor Plans & Elevations (Plot 3)

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of development hereby permitted shall match the existing materials as stated on the Design and Access Statement received by the Local Planning Authority on 6 December 2023.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

04. The development must not be brought into use until the access to the site at Woodbine Grange, Main Street, Ryther has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 4.5 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50 and the following requirements.

- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.
- Measures to enable vehicles to enter and leave the site in a forward gear.

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.

05. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Woodbine Grange, Main Street, Ryther have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

06. 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:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. restriction on the use of Woodbine Grange, Main Street, Ryther access for construction purposes;
3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. details of the measures to be taken for the protection of trees; and
8. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason for Condition

In the interest of public safety and amenity

07. Notwithstanding the provisions of Class A and Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected, without the prior written consent of the Local Planning Authority.

Reason:

In order to retain the character of the site in the interest of visual amenity, having had regard to policy ENV1.

08. The development shall be carried out in accordance with the submitted flood risk assessment (reference 15026_00025-APP-00-XX-RP-C-1005 P03 Flood Risk Assessment dated 04/12/2023) and the following mitigation measures it details:
- Finished floor levels shall be set no lower than 8.32 metres above Ordnance Datum (mAOD)
 - Flood resistance measures to be a minimum of 300mm above the 1 in 100 plus 20% Climate change level (8.398m AOD)

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

Reason:

To reduce the risk of flooding to the proposed development and future occupants.

09. The development hereby approved shall be carried out in accordance with the mitigation measures outlined in paragraph 5.2 of the Ecological Impact Assessment (dated October 2023).

Reason:

In order to protect and enhance the sites ecological value in accordance with the NPPF, Policy SP18 of the Selby Core Strategy and ENV1 of the Selby Local Plan.

10. Prior to development (excluding demolition), a site investigation and risk assessment must be undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors. A written report of the findings must be produced and is subject to approval in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

11. Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors.

12. Prior to first occupation or use, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be

submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

13. In the event that unexpected land 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, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason:

To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

14. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

Reason:

To protect the residential amenity of the locality during construction

15. No development approved by this permission shall be commenced until the Local Planning Authority, in consultation with Ainsty (2008) Internal Drainage Board, has approved a scheme for the disposal of surface water and foul sewage.

Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered for the disposal of surface water:

- The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology.
- If soakaways are not feasible, then the Board may consider a proposal to discharge surface water to a watercourse (directly or indirectly).
- For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140 litres per second per hectare or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 litres per second per hectare.

- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

16. A strip of land 9 metres wide adjacent to the top of the embankment of the watercourse known as Poplars Dyke (which is maintained by Ainsty (2008) Internal Drainage Board under the Land Drainage Act 1991) shall be kept clear of all new buildings, structures, walls, fencing and planting unless agreed otherwise in writing with the Drainage Board. Ground levels must also remain the same within this area.

Reason:

To maintain access to the watercourse for maintenance or improvements.

Target Determination Date: 11.10.2024

Case Officer: Jac Cruickshank, jac.cruickshank@northyorks.gov.uk

Appendix A: Proposed Site Plan

Notes
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 Contractors shall verify and be responsible for all dimensions and conditions and shall report any discrepancies to the issuing office before proceeding with any work. Drawings shall not be scaled.

- KEY:**
- Application Boundary
 - Watercourse
 - Existing Buildings to be retained
 - Existing Buildings to be demolished
 - Existing tarmac surface
 - Block paved parking area
 - Access track as existing, shared access to farm and dwellings
 - Proposed path
 - Vehicular access
 - Main entrance to proposed dwellings
 - Boundary - Close boarded 1.8m fence
 - Boundary - 1.5m post and rail fence
 - Existing Trees
 - Proposed Trees

General Notes:
 Ground floor areas are based on OS map information. Topographical survey and measured building survey are required to provide with accurate information.
 All planting shown is indicative.

Schedule of Accommodation			
Building	No of Beds	Persons	GIA
Plot 1	3	6	173 m ²
Plot 2	3	4	82 m ²
Plot 3	3	5	90 m ²



Proposed Attenuation Tank
 Refer to Civil Eng drawing for details. Dwg no: 15026 00025-APP-92-XX-DR-C-2500 P1

Proposed Sewage Treatment Plant
 Refer to Civil Eng drawing for details. Dwg no: 15026 00025-APP-92-XX-DR-C-2500 P1

AMENDED DRAWING

Proposed Site Plan
 1 : 200



PL2	Parking amended	21/8/2022	RG	RG
PL1	Planning Issue	04/04/2022	GPL	RG
Rev	Details	Date	Drawn by	Checked by

align PROPERTY PARTNERS
 Mount View, Standard Way, Northallerton, North Yorkshire, DL6 2YD Tel: 01609 797373

Client: **NORTH YORKSHIRE COUNCIL**
 North Yorkshire Council

Project Name: **Woodbine Grange Farm, Ryther, Tadcaster, North Yorkshire, LS24 9ED**

Drawing Title: **Proposed Site Plan**

Purpose	Planning	RBA	3
Scale	1 : 200	Size	A1
Date	09/05/2022	Drawn	GPL
Checked	BG	Approved	RG

Project code: 15026 00025_APP_ZZ_00_DR_A_A020_PL2

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