

North Yorkshire Council

Community Development Services

Skipton and Ripon Area Constituency Committee

05 SEPTEMBER 2023

**ZC23/02678/FUL – FULL PLANNING PERMISSION FOR PART CONVERSION/PART
NEW BUILD OF AGRICULTURAL BUILDING TO FORM A NEW DWELLING AT HEW
GREEN FARM, HIGH LANE, HIGH BIRSTWITH, HG3 2JL ON BEHALF OF MR P
SADDINGTON**

Report of the Corporate Director – Community Development Services

1.0 Purpose of the Report

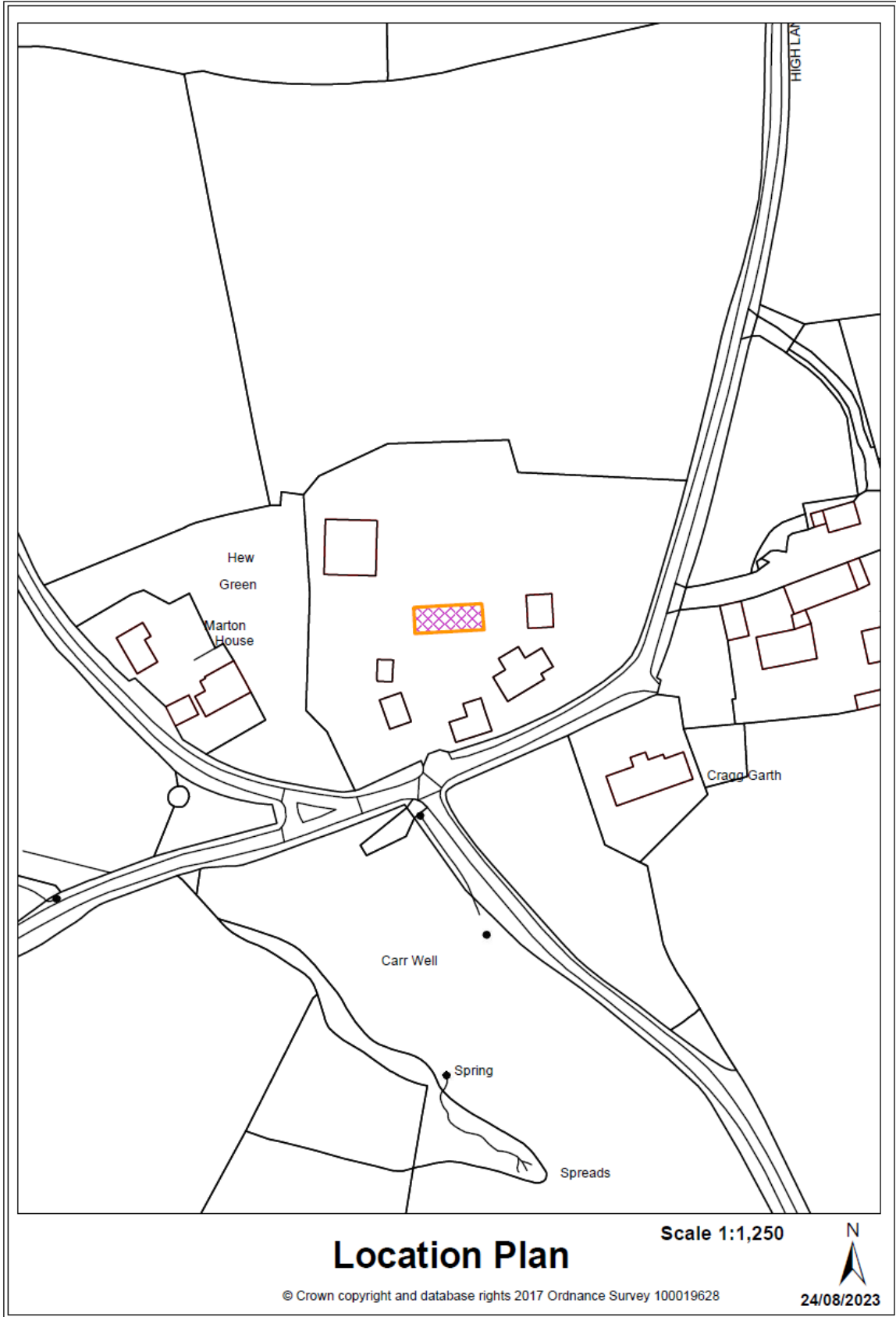
- 1.1 To determine a planning application for the part conversion / part new building of agricultural building to form a new dwelling on land at Hew Green Farm, High Lane, High Birstwith, HG3 2JL.
- 1.2 This application is brought to the Area Planning Committee because the Chair of the Skipton and Ripon Area Constituency Planning Committee has made representations in writing to the Corporate Director of Community Development within the publicity period raising significant material planning issues.

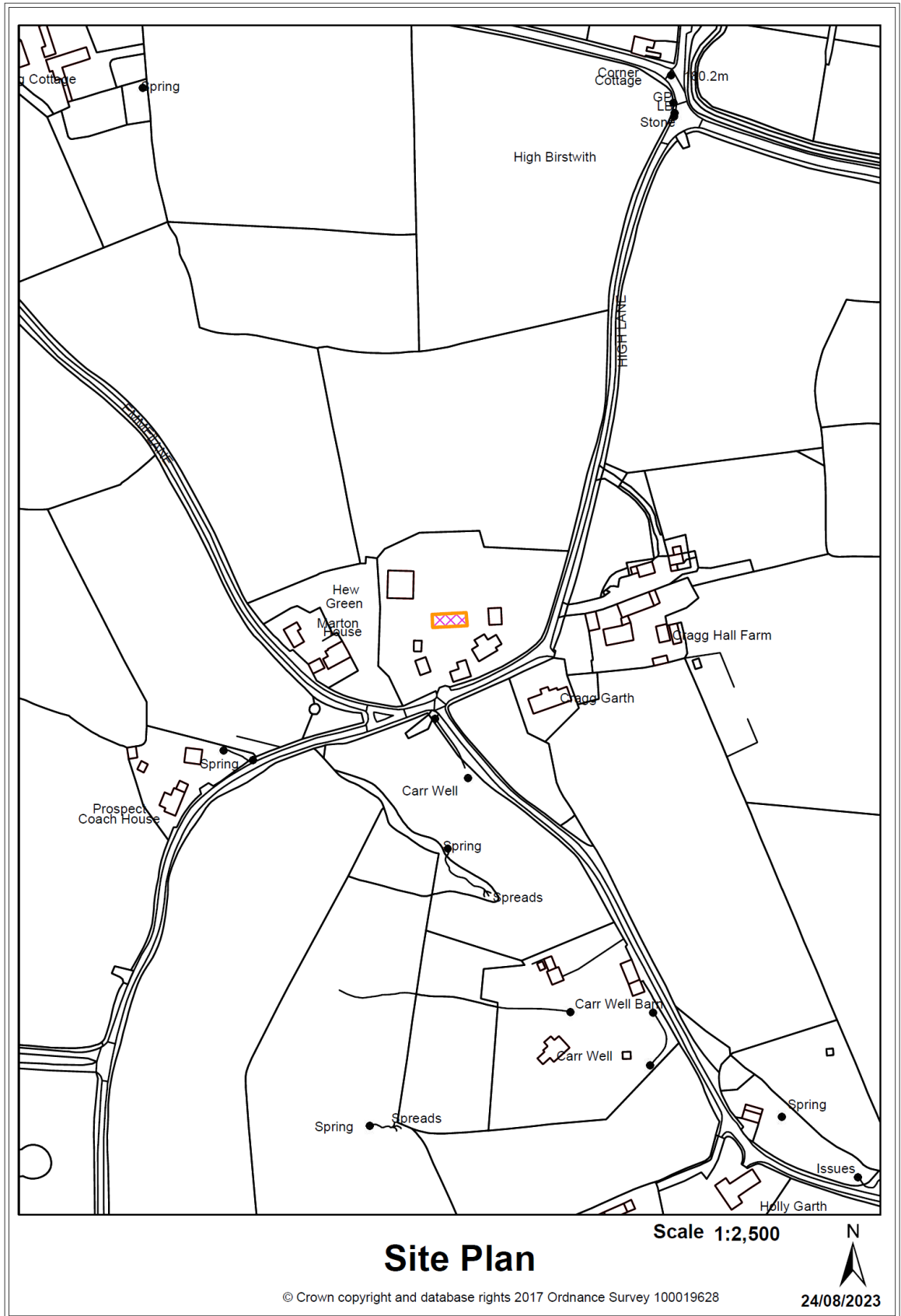
2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be REFUSED

- 2.1. This application seeks Full Planning Permission for the part conversion/part new build of an agricultural building to form 1 no. 1 bedroomed dwelling. A previous application for the same proposal has already been refused under delegated powers in May 2023. This application differs from the previously refused application only in respect of the addition of additional photos relating to landscape impacts and the provision of information relating to energy efficiency.

- 2.2. Permission was previously granted at appeal for the conversion of a building to a dwelling, however, the building has now been substantially demolished and all that remains is one full wall and two gable returns.
- 2.3. The site is located within the Nidderdale AONB. The site is located outside defined development limits in 'open countryside', where the principle of new build housing is contrary to the policies in the Local Plan. It is considered that due to the extent of build works required that this can no longer be considered to be a conversion but would equate to a 'new-build' dwelling, which would be contrary to national planning policy and Local Plan Policies GS2, GS3 and HS6 and would undermine the growth strategy for the area. There are no material planning considerations that clearly outweigh this harm.





3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found [here](#)
- 3.2. There are 4 relevant planning applications for this application which are detailed below.

20/05115/FUL – Conversion of cow shed to form a single dwelling. Refused 14.4.21. Allowed on appeal on 18.1.2022.

20/05120/FUL – Conversion of redundant barn to form a single dwelling. Withdrawn 29.4.2021.

22/04427/DVCON – Application to vary condition 2 (drawings) of Planning Approval 20/05115/FUL due to change in design and extent of rebuild. Refused 29.12.2022.

ZC23/01498/FUL – Part conversion/part new build of agricultural building to form a new dwelling. Refused 24.5.2023.

4.0 Site and Surroundings

- 4.1 The application site comprises of the remains of an agricultural building situated in the centre of a collection of converted agricultural buildings and a replacement dwelling and one remaining large modern agricultural shed still in agricultural use on the site of Hew Green Farm.
- 4.2.1 The structure that is the subject of this application was granted permission for conversion at planning appeal in January 2022, however, during the process of implementing this approval, the majority of the barn has been demolished leaving only one full wall and the gable returns of the barn remaining. New walls have been commenced to replace those that have been demolished but at the time of writing this report this amounted to a small concrete block wall approximately 3 blocks in height.
- 4.3 The site is located within the Nidderdale AONB. The application site is outside defined development limits and is therefore located in 'open countryside' for planning purposes.

5.0 **Description of Proposal**

- 5.1. This application seeks Full Planning Permission for the part conversion/part new build of an agricultural building to form 1 no. 1 bedroomed dwelling.
- 5.2. The proposal seeks permission to retain the remaining sections of the walls and 'enveloping this with new stonework and timber under a stepped pitched roof; to create a one bedroom dwelling'. The proposal would be of the same floorspace and footprint as that approved on appeal for conversion.
- 5.3. This application is the same scheme as that refused under delegated powers under planning reference ZC23/01498/FUL in May 2023. The reason for the refusal of the application is as follows:

The building is no longer considered to be of permanent and substantial construction, and thus is not considered to represent a conversion and thus is contrary to Local Plan Policy HS6 and there are no other local or national planning policies which would support the provision of market housing in this location. The proposed development would create an isolated dwelling in the countryside in an unsustainable location which is contrary to paragraph 80 of the NPPF and would undermine the growth strategy for the District set out in Policies GS2 and GS3 of the Local Plan.

- 5.4. The current application includes additional supporting information in the form of additional photographs to demonstrate the landscape impact and SAP calculations to demonstrate the energy performance levels and carbon emissions of the proposed property but is essentially the same scheme as that previously refused.

6.0 **Planning Policy and Guidance**

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

Adopted Development Plan

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

- Harrogate District Local Plan 2014-2035, adopted 4th March 2020
- Minerals and Waste Joint Plan, adopted 2022

Emerging Development Plan – Material Consideration

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

Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework 2021
 - National Planning Practice Guidance
 - National Design Guide
 - Farm Buildings Design Guide
 - Nidderdale AONB Management Plan
 - Landscape Character Assessment

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Parish Council:** no comments received.
- 7.3. **Environmental Protection:** Recommend conditions in relation to contamination and hours of construction.
- 7.4. **Highways:** Recommend conditions.

Local Representations

- 7.5. 2 local representations have been received of which both are in support. A summary of the comments is provided below, however, please see website for full comments.
- 7.6. Support:
- Existing site is an eyesore
 - Good design

- Small dwelling in an area of large houses
- Positive impact on the AONB

8.0 Environment Impact Assessment (EIA)

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

9.0 Main Issues

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

- Principle of development
- Self Build and Housing Mix
- Impact on Character and Appearance of the AONB
- Residential Amenity
- Highway Safety
- Land Contamination
- Other Matters

10.0 ASSESSMENT

Principle of Development

10.1. The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions. There is a presumption in favour of sustainable development and the NPPF advises that there are three dimensions to sustainable development: economic; social and environmental.

10.2. Paragraph 79 of the NPPF states that 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities'.

- 10.3. Local Plan Policy GS2 sets out the Growth Strategy for the District which aims to focus growth within main settlements. Policy GS3 sets out the criteria for allowing development outside development limits and states that ‘development will only be supported where expressly permitted by other policies of this plan or a neighbourhood plan or national planning policy’.
- 10.4. The conversion of rural buildings for housing is supported under Local Plan Policy HS6 which sets down the following requirements:

Outside defined settlement development limits the conversion and/or re-use of existing buildings to residential use from other uses will be supported where proposals meet all of the following criteria:

- A. The building is of permanent and substantial construction, structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction;*
- B. The scale, form and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials;*
- C. The proposed alterations are of a high quality design, retaining the features that contribute positively to the character of the building and its surroundings;*
- D. The building and its curtilage can be developed without an adverse effect on the historic environment, the character of the local landscape or its setting;*
- E. It can be demonstrated that there is no significant impact on local biodiversity, including protected habitats and species; and*
- F. The proposed use would not harm the countryside by way of traffic, parking, storage, pollution or the erection of associated structures.*

Developments under this policy will be expected to comply with the affordable housing and open space provision policies of the plan.

Where a future alteration or extension could have a detrimental effect on the character of the converted building or the area, permitted development rights will be withdrawn for such development.

- 10.5. The first requirement in relation to this policy is that the building is structurally sound and capable of conversion. It was on this basis that the building was approved on appeal for conversion under planning appeal reference APP/E2734/W/21/3283129. Paragraphs 12 and 13 of the Inspector’s report states:

- 10.6. ‘*The appellant’s statement of case notes that the existing building is of permanent and substantial construction and is structurally sound*’. The statement goes on to say

that the proposed alterations are described as '*cosmetic*' and then states that '*on the basis of the evidence before me I am satisfied that the new roof and timber cladding is not, for the purposes of LP Policy HS6, a substantial alteration...*'

- 10.7. During the works to implement the above approval the building has been substantially demolished and now all that remains is one existing full wall and two part gable returns. The remainder of the building is no longer in situ.
- 10.8. The building can no longer be considered to be of '*permanent and substantial construction structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction*' as set out in Local Plan Policy HS6 and therefore does not meet the requirements of the Policy.
- 10.9. Whilst clearly some works were expected to be undertaken as part of the above appeal approval, it is clear the level of works that have been undertaken go beyond that which the Appeal Inspector considered to be '*cosmetic*'.
- 10.10. The proposal is therefore considered to no longer meet the requirements of Local Plan Policy HS6, which seeks to convert or re-use an existing building and whilst it is appreciated that the existing wall would be used within the building this is not considered to constitute a conversion but rather the erection of a new build dwelling in the open countryside.
- 10.11. The erection of housing within an '*open countryside*' location i.e. outside defined development limits is generally not supported by both national or local plan policy except in specific circumstances.
- 10.12. NPPF paragraph 80 states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- essential need for a rural worker
 - optimal viable reuse of a heritage asset
 - re-use redundant or disused buildings and enhance its immediate setting
 - subdivision of an existing residential building
 - the design is of exceptional quality
- 10.13. Whilst the proposal may not be '*isolated*' from other dwellings as clearly it is in the centre of a range of converted buildings and other dwellings, the site is considered to

be 'isolated' from the nearest settlements of Darley and Hampsthwaite with limited access to services and public transport, being located in an unsustainable location which requires a heavy reliance on the motor vehicle for everyday living.

- 10.14. This is based on the judgement on the Bramshill case, which concluded that in determining whether a particular proposal is for "isolated homes in the countryside", the decision-maker must consider "whether [the development] would be physically isolated, in the sense of being isolated from a settlement" (rather than "buildings").
- 10.15. With this in mind the proposal does not meet any of the exceptions set out in paragraph 80 of the NPPF and thus there is not considered to be any national or local policy which would support the proposed development.
- 10.16. On the basis of the above it is considered that the proposal is unacceptable in principle and does not accord with Local Plan Policies GS2, GS3 or HS6 or paragraph 80 of the NPPF.

Self-Build and Housing Mix

- 10.17. The submitted statement which accompanies the application sets out the position that the proposal would be a self-build unit and would provide a small property in line with the Council's Housing Mix Policy,
- 10.18. Local Plan Policy HS3 sets out the Council's strategy for the provision of self-build properties on large housing sites, and whilst it is appreciated that further units will be provided as windfall sites or smaller housing sites, it is expected that these would be located within development limits and sustainably located.
- 10.19. Whilst the proposal states that 1 no. self-build unit would be provided, and the provision of self-build plots is considered to carry substantial weight this alone does not outweigh the fact that the property would be unsustainably located 'isolated' from the nearest settlement with limited access to local services and facilities.
- 10.20. In any case, no legal agreement accompanies the application in relation to self-build, so significant weight cannot be attached to this matter in this instance.

10.21. Local Plan Policy HS1 seeks a suitable housing mix in line with the HEDNA and whilst it is noted that the proposal will provide a 1 no. bedroom unit, again this does not outweigh the issues around the sustainability of the location.

Impact on Character and Appearance of the AONB

10.22. The application site is located in open countryside and within the Nidderdale AONB. Paragraph 176 of the NPPF states that 'great weight should be given to conserving and enhancing landscaping and scenic beauty' in these areas and that these should be given the 'highest status of protection'.

10.23. Local Plan Policy GS6 sets out the criteria against which development within the AONB will be considered.

10.24. Local Plan Policy NE4 also seeks to protect and enhance the landscape character of the District.

10.25. The original building was of no architectural or visual merit and it is noted in the Inspectors report that the original conversion proposal would have a positive impact on the AONB. This building sits in the centre of a range of converted barns and a replacement dwelling and thus there are limited views from Emmott Lane and High Lane, especially due to the garage buildings allowed as part of the wider conversion and replacement dwelling approvals. The remains of the building would be seen in long range views from the north but the building would be seen against the backdrop of the remaining agricultural shed and the converted barns and it is not unusual to find derelict barns in the AONB.

10.26. Whilst the building is not attractive in its present condition, and the proposed dwelling would be an improvement on the remaining structure, this is not sufficient justification for the replacement of the structure, as the site could be improved by simply removing what remains of the building.

10.27. The proposal is to retain the existing remaining parts of the structure and envelope this with a new build using stone and timber cladding. Overall, the design of the proposal is considered to be in keeping with the local area and would be an improvement on the design of the original conversion proposal.

- 10.28. The site layout would replicate that approved previously and would not encroach any further into the open countryside beyond that of the original farmstead.
- 10.29. Any planning approval should include conditions relating to materials and also seek to remove permitted development rights on the site due to the close relationships between the residential properties and to avoid any future extensions or further outbuildings which would detract from the overall appearance of the area.
- 10.30. On the basis of the above it is considered that the proposal would lead to a visual improvement of the area but that this could also be achieved by the removal of the remaining structure and so there are no considerations here that outweigh the conflict with planning policies on the erection of a new dwelling in this location outside development limits.

Residential Amenity

- 10.31. Local Plan Policy HP4 seeks to protect the amenity of both existing and future residents as does paragraph 130 of the NPPF.
- 10.32. The proposal seeks to replace an existing dilapidated structure with a new dwelling. The proposal is the same size and scale as that of an existing appeal approval for the conversion of the building which previously stood on the site.
- 10.33. The proposal does not create any greater level of issues in relation to the separation of the properties than that previously approved on the site nor any further issues in relation to overlooking or overshadowing.
- 10.34. The proposal would lead to a visual improvement of the outlook from the windows of the surrounding properties.
- 10.35. The site is surrounded by residential properties and thus a condition is recommended in relation to the hours of construction to reduce the impact of any build works on the amenity of the neighbouring properties.
- 10.36. The proposal is not considered to create issues in relation to residential amenity and thus accords with Local Plan Policy HP4.

Highway Safety

10.37. The proposal would use the existing access to the site and thus it is not considered that the proposal would impact adversely on highway safety. Conditions are, however, recommended by the Highways Authority in the event of a planning approval.

Land Contamination

10.38. The site was previously used in relation to agriculture and therefore there is potential for contamination to be found on the site during construction. A land contamination condition in relation to any unexpected contamination on the site is therefore considered to be expedient in the event of a planning approval.

Other Matters

10.39. Waste – No details as shown on the submitted plans in relation to refuse provision and therefore a condition requiring this to be provided is considered appropriate in the event of a planning approval.

10.40. Dangerous and unsightly – These matters can be dealt with under other legislation i.e. building regulations and thus are not a planning consideration.

10.41. Sustainability – The site is not considered to be situated in a sustainable location as set out earlier in the report. The application is, however, submitted with a set of SAP calculations setting out the sustainability of the built form. The submitted planning statement sets out that these sustainability benefits will be provided through an improvement of the enhanced thermal properties of the new build; the provision of an air source heat pump (which is not included in the details of the submitted scheme); underfloor heating and high UV value windows and doors. The statement also states that a local builder would be used, however, this is not a matter that can be controlled by the Local Planning Authority and therefore any builder could be used for the development.

Equality Act

10.42. 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.

10.43. It is not considered that The Equality Act 2010 is relevant to the consideration of this application.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. The planning approval for the conversion of the building to a dwelling is no longer considered to be extant due to the extent of works undertaken and the proposal is not considered to meet the requirements for a conversion of re-use of an existing building as set out in Local Plan Policy HS6.

11.2. The site is located outside defined development limits in 'open countryside' within the AONB. The site is considered to be unsustainably located with no access to local facilities or public transport.

11.3. The proposal is considered to consist of the erection of a market dwelling within an area where new build housing is not supported by either local or national policy, and thus is unacceptable in principle as it is contrary to Local Plan Policies GS2 and GS3 and paragraph 80 of the NPPF. It is not considered that the provision of self-build housing or a small housing unit would outweigh the issues associated with the unsustainable location.

11.4. Whilst the remaining structure is not visually attractive, the site is situated within an arrangement of converted properties and views of the site are limited from more long-range viewpoints around the AONB. The existing structure is also seen in relation to a large modern agricultural shed within the site.

11.5. The replacement of the structure as proposed would lead to an improvement in the appearance of the area, however, a similar improvement could be achieved from the demolition of the structure and thus this is not considered to be sufficient justification to outweigh the policy objection to the proposal.

12.0 RECOMMENDATION

12.1 That planning permission be REFUSED for the following reasons:

- i. The building is no longer considered to be of permanent and substantial construction, and thus is not considered to represent a conversion and thus is contrary to Local Plan Policy HS6 and there are no other local or national planning policies which would support the provision of market housing in this location. The proposed development would create an isolated dwelling in the countryside in an unsustainable location which is contrary to paragraph 80 of the NPPF and would undermine the growth strategy for the District set out in Policies GS2 and GS3 of the Local Plan.

Target Determination Date: 25.09.2023

Case Officer: Emma Howson, emma.howson@northyorks.gov.uk

Appendix A – Site photo showing remains of building

Appendix B – Proposed Site Layout

APPENDIX ONE
Photograph showing the remains of the building



APPENDIX TWO

Proposed Site Layout

