

North Yorkshire Council
Community Development Services
Thirsk and Malton Constituency Planning Committee
19th October 2023

**ZB23/01194/FUL - Construction of 4 No. bungalows including creation of new
vehicular access**

At: OS Field 2211, South Back Lane, Tollerton, North Yorkshire,
On behalf of: Venturi Homes Limited

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

1.0 PURPOSE OF THE REPORT

- 1.1 To determine an application for full planning permission for a residential development at OS Field 2211, South Back Lane, Tollerton.
- 1.2 This application is referred to the Planning Committee owing to the complex planning matters it presents.

2.0 SUMMARY

RECOMMENDATION:

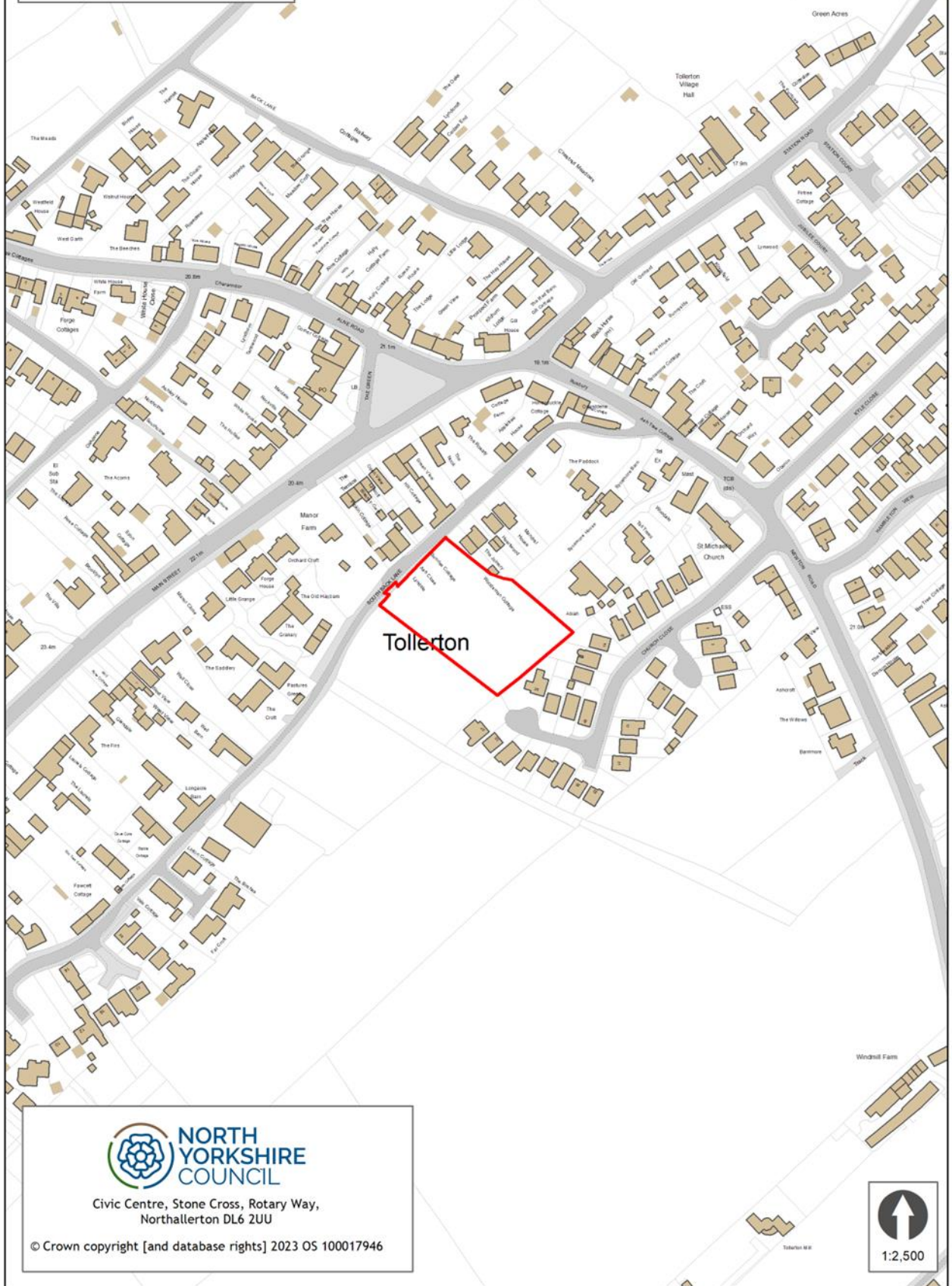
- 2.1 That outline planning permission be **GRANTED** subject to the conditions set out in Section 12 of this report.
- 2.2 The development proposed comprises of four bungalows on the north-eastern part of a greenfield site that lies between Church Close, a C20 residential estate to the east, and South Back Lane, a road that runs parallel to Main Street in Tollerton to the west.
- 2.3 The application follows a previous scheme which was refused in June 2020 and subsequently dismissed at appeal. Said previous scheme was for five bungalows fronting South Back Lane and running the whole length of the rectangular greenfield site. This latest application has reduced the number to four units and altered the layout, so the row of bungalows runs at 90 degrees

to the previous scheme and thus only develops the north-eastern part of the site.

- 2.4 The boundary to the Tollerton Conservation Area runs along South Back Lane, with the site just outside of the Conservation Area. The impact on the setting of the Conservation Area is one of the main determining issues, along with compliance with policy HG5 in terms of this sites suitability for windfall housing development, paying heed in particular to the impact on the character and appearance of South Back Lane and the village as a whole. Technical matters such as highway safety and drainage are also important material planning considerations in this case.

ZB23/01194/FUL

06/10/2023



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3.0 PRELIMINARY MATTERS

- 3.1 Access to the case file on Public Access can be found here: Online Documents

Planning History

- 3.2 9/00193/FUL - Full planning application for the creation of 5 dwellings - Withdrawn

- 3.3 20/00492/FUL - Revised full planning application for the creation of 5 no. bunglows - Refused 19.06.2020 for the following reasons:

1. The proposed development fails to reflect the existing built form and character of the village as required by Local Development Framework Policies CP1, CP2, CP4, DP9 and the Council's Interim Planning Guidance (2015)
2. The proposal fails to enhance the character of the countryside and is harmful to the setting of the Tollerton Conservation Area contrary to Local Development Framework CP16, DP28 and DP30 and chapter 16 of the NPPF.
3. The proposed design and type of properties would not be in character with the local area and its setting contrary to Local Development Framework Policy CP17, DP10 and DP32.
4. South Back Lane which leads to the site is by reason of its insufficient width, poor alignment and substandard visibility at the junction with Newton Road and is unsuitable to cater for the traffic which would be likely to be generated by this proposal contrary to Local Development Framework Policies CP1, CP2 and DP4.
5. The proposal fails to provide sufficient information regarding foul and surface water drainage systems and in the absence of information to the contrary it is considered that the development may exceed the capacity of the existing infrastructure and cause pollution and flooding to the detriment of the existing community and contrary to Local Development Framework Policies CP1 and DP6.

- 3.4 This appeal was then subsequently dismissed at appeal. However reasons 4 and 5 were not included in the Inspectors appeal dismissal.

4.0 SITE AND SURROUNDINGS

- 4.1 The site is a rectangular parcel of greenfield land measuring approximately 4250sqm in area. It's currently bound on three sides by a dense hedgerow and owing to it sitting slightly higher than the adjacent South Back Lane, views across the site are limited. A gap in the hedgerow at the south western corner where the field access is allows glimpses across the field to the backdrop of Church Close, a C20 residential development which extends the whole length of the south eastern boundary of the site. To the north east of the site there are four recently completed two storey dwellings which back on to the rear gardens of Sycamore House and Abiah Newton, two larger detached units which are part of a cul-de-sac located to the north east of the site and abut the boundary in this direction. There are four sycamore trees within the garden of Abiah Newton which sit just outside of the site and that are protected by Tree Preservation Orders.
- 4.2 The boundary of the Tollerton Conservation Area runs along South Back Lane, with the village to the west within the boundary. Opposite South Back Lane the character and appearance of the various dwellings that front the road differs greatly. There are examples of small bungalows as well as larger brick-built dwellings of a more rural character. There are partial views of the roofscape of the rear of Main Street possible through the gaps in the buildings as one travels along South Back Lane, but these are on the most part very limited. The main example of such a view is through the Manor Farm plot, which is a detached dwelling that sits within the centre of the strip of land between South Back Lane and Main Street and unlike the other dwellings in this area does not have any back fill development reducing intervisibility from South Back Lane.

5.0 DESCRIPTION OF PROPOSAL

- 5.1 This application is proposing the construction of four bungalows on the site. This would be in a linear layout on a north west-south east axis. All units would be served by a single access point from South Back Lane, with private parking provision provided to the side of each dwelling.
- 5.2 There are three different house types proposed: A, B and C. House type A (2 bed) has a hipped roof design with an adjoining garage on the side elevation. It measures approximately 132sqm in GIA (excluding the garage), with an eave's height of approximately 2.7m This will be the north western-most unit. House type B (3 bed) has a dual-pitch roof design with a gable end element projecting from the rear. This also has an adjoining garage on the side elevation. House type B measures approximately 160sqm GIA (excluding the garage) with an eave's height of 2.7m. The two central units would be house type B. Finally, house type C (3 bed) effectively mirrors house type A with a hipped roof design but it is slightly larger, measuring 160sqm in area. The south eastern-most unit will be house type C. The overall housing mix is 1 x 2 bed (25%) and 3 x 3 bed (75%).

6.0 PLANNING POLICY AND GUIDANCE

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

Adopted Development Plan

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

Emerging Development Plan - Material Consideration

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

Guidance - Material Consideration

6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- Hambleton Housing SPD

7.0 CONSULTATION REPONSES

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

Consultees

7.2 Parish Council - Tollerton Parish Council wish to see this application refused for the following reasons:

- There has been too much development in Tollerton over the last four year (the figure of 60 is cited), which is over development and contrary to the wishes of residents outlined in a survey undertaken by the Parish Council.
- The location of the dwellings erodes the feel of the village by creating ribbon development along historic lanes.
- Highway safety concerns owing to "unconsidered parking" along the lanes and the additional traffic movements adversely impacting local residents who use the lane.
- The deterioration of the lane and debris, mud and erosion of the grass verges due to passing traffic, parking vehicles, and deliveries to properties is detrimental to the area. Further development will only exacerbate this issue.
- Harm to ecology.
- Impact on drainage infrastructure

- Loss of open aspect within the site.

- 7.3 Environmental Health - No objections.
- 7.4 Environmental Health (Contaminated Land) - No objection subject to condition covering the discovery of unexpected contamination during construction.
- 7.5 NYC Highways - South Back Lane is narrow with substandard alignment and the Local Highway Authority has previously recommended refusal of a similar planning application at this location. That application was refused for a number of reasons including highway safety and was subject to an appeal reference APP/G2713/W/20/3259999. The appeal was dismissed but the Inspector did consider the highway safety matters and concluded that "given the modest scale of the proposal and the limited quantum of vehicle movements attributable to the appeal proposal...I am not persuaded that South Back Lane or its junction with Newton Road is inherently unsuitable for the limited amount of traffic likely to be generated by the proposed development" and there was not sufficient reason to dismiss the appeal on highway safety grounds. Given this decision, it would not be appropriate for the Local Highway Authority to recommend refusal of this proposal. Consequently, no objection is raised subject to conditions ensuring the access is constructed to the required standards, parking and turning areas are in place prior to occupation, and finally a Construction Management Plan is submitted prior to commencement of the development.
- 7.6 Yorkshire Water - No objection subject to two conditions requiring separate drainage systems for foul and surface water and preventing piped discharge of surface water from the site until a satisfactory outfall has been agreed with the Local Planning Authority.

Local Representations

- 7.7 22 local representations have been received of which 1 is neutral, 1 supports and 20 are objecting. A summary of the comments is provided below, however, please see website for full comments.

Neutral

- No comments relating to the principle of the development but raises concerns relating to highway safety.

Object

- There has been too much development in Tollerton recently.
- Highway safety concerns relating to increase in vehicle movements, lack of passing places on South Back Lane, inadequate visibility, lack of crossing places, damage to local roads,
- Inadequate drainage infrastructure.
- Bungalows are not required for the local community in Tollerton.
- Inaccurate plans omitting existing buildings in the locality.
- The adjacent protected trees are not mentioned in the application and these should be protected.

- Harm to ecology and protected species.
- Overdevelopment of the site.
- The dwellings are too close to existing neighbouring properties.
- Increased noise from traffic.
- Development of this site will increase flood risk in the surrounding area.
- Inaccurate detail in the application relating to nearby cycle routes and local bus services.
- Detrimental impact on the amenity of neighbours.

Supports

- The precedent has been set for development along South Back Lane.

8.0 ENVIRONMENT IMPACT ASSESSMENT (EIA)

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

9.0 MAIN ISSUES

- 9.1 The key considerations in the assessment of this application are:
- Principle of development
 - Impact on the setting of the Tollerton Conservation Area
 - Housing mix
 - Design
 - Impact on amenity
 - Highway safety
 - Drainage and flood risk
 - Ecology and biodiversity net gain

10.0 ASSESSMENT

Principle of Development

- 10.1 The site subject to this application is not allocated for housing development in the Local Plan. Therefore, it would be classed as windfall housing development which is governed by policy HG5 of the Hambleton Local Plan. Policy HG5 only supports such development when it concerns a site either within or adjacent to the built form of a "defined settlement". The first issue at hand is whether Tollerton is a "defined settlement" for the purposes of policy HG5, paying heed to policy S3 which sets out the Settlement Hierarchy. Tollerton is defined in said Settlement Hierarchy as a "secondary village", the third level in terms of sustainability. The applicant has provided a Travel Statement which outlines that the site is also within walking distance of several bus stops on the York to Thirsk bus route and is within 2.2km of the National Cycle Route. An objection has questioned the information relating to the bus frequency and whether this can be relied upon, as well as the actual distance to nearby cycling infrastructure. A check on the Traveline website shows that there is a frequent bus connecting Tollerton to Easingwold in around 15 minutes. Furthermore, the National Cycle Route no. 65 which runs

through Alne and up to Easingwold is indeed 2.25km to the west via Alne Road. As such, it is reasonable to say the village is well connected. Nevertheless, for the purposes of policy HG5, the requirement is for the site to be adjacent to/within an "adopted settlement" as set out in the Local Plan, which Tollerton is. Consequently, residential development could be supported here subject to the other tests set out in policy HG5.

10.2 The second matter to consider in respect of policy HG5 is whether the site in question is classed as within the built form of the settlement or adjacent to it, as the tests under policy HG5 differ depending on this. Policy S5 of the Local Plan defines the "built form" as "the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them." It excludes the following from being classed as part of the built form:

- "a. any individual building or group of dispersed buildings or ribbon developments which are clearly detached from the main part of the settlement;
- b. any ribbon development attached to the main part of the settlement where the buildings relate more to the surrounding countryside than to the main part of the settlement;
- c. gardens, paddocks, and other undeveloped land on the edge of the settlement where this land relates more to the surrounding countryside than to the main part of the settlement;
- d. agricultural buildings on the edge of the settlement; and
- e. outdoor sports and recreational spaces on the edge of the settlement."

10.3 Tollerton has quite an unusual layout. It has grown from the historic core of the buildings either side of Main Street and to the north of Alne Road, which is effectively the area the Conservation Area covers, but not in any particularly uniformed way. There is more modern residential development on the eastern side of the settlement, which comprises mainly C20 cul-de-sac's that have left pockets of open space, in particular either side of Church Close. Whilst these spaces relate fairly well to the built form of the village in that they are often surrounded on at least two sides (or three in the case of the site in question) by existing development, they still retain a rural character that means they couldn't be said to be completely within the built form of the village for the purpose of policy HG5. Consequently, the second part of policy HG5 which sets out the tests for windfall housing development "adjacent to the built form" is engaged. This reads as follows:

- "A proposal for housing development on a site adjacent to the built form of a defined village will be supported where the proposal demonstrates that:
- a. a sequential approach to site selection has been taken where it can be demonstrated that there is no suitable and viable previously developed land available within the built form of the village; and
 - b. it will provide a housing mix in terms of size, type and tenure, in accordance with the Council's Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA) or successor documents.

All proposals will individually or cumulatively;

- c. represent incremental growth of the village that is commensurate to its size, scale, role and function;
- d. not result in the loss of open space that is important to the historic form and layout of the village; and
- e. have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village."

- 10.4 The first requirement set out above requires a sequential approach to be taken to windfall housing development which prioritises sites within the built form of settlements and requires them to be developed first when possible. As set out above, Tollerton does have some undeveloped parcels of land, particularly around the eastern edge of the settlement, but these invariably would not be seen as within the built form and therefore suitable for "infill development". Consequently, officers are content that there are no suitable and viable previously developed land available within the built form of the village and therefore requirement (a) of policy HG5 is met.
- 10.5 Policy HG5(b) relates to housing mix and refers to the evidence bases relating to this matter that have fed into the Local Plan as well as the Housing Supplementary Planning Document (SPD). The overall housing mix will be assessed in depth in a subsequent section of this report but overall it is considered that the proposal of 1 x 2 bed and 3 x 3 bed bungalows is in line with the targets set out in the Housing SPD and would help to address an identified shortfall in the districts housing stock. As a result, the requirement of HG5(b) is met.
- 10.6 Part (c) of policy HG5 relates to the overall amount of development in a particular settlement to ensure that the amount of development is not of such a scale in its own right, or cumulatively, that it would be harmful to the character of the village or potentially overwhelm services and facilities. This is a concern raised in several of the objections, with residents considering that there has been too much development in Tollerton. In order to assess this issue fully, the Council's Monitoring Officer has provided a summary of figures from between 2015 and the present day in terms of how many dwellings have been built and the number that could be built with extant planning permissions. In total, since 2015, there have been 69 dwellings either built or with planning permission that could be implemented. Overall, there are now 452 dwellings (either built or not yet completed) in Tollerton. If these 4 units now proposed were taken into account, these figures would be 73 and 456 respectively. Prior to 2015, the total number of dwellings would have therefore been 383. This means that since 2015, should this application be granted, Tollerton would have grown by approximately 19% at an average of 2.375% per year, in terms of the number of dwellings. It is considered that this is an acceptable level of growth for a settlement that offers a reasonable amount in terms of local facilities, with a doctor's surgery (which has just received planning permission for an extension) and a pub, as well as good public

transport links to Easingwold (a Market Towns) and from there on to even larger settlements such as York. On this basis it is considered this development would not have a detrimental impact on the size and scale of the settlement or undermine its role as a secondary village and thus the requirements of policy HG5(c) are met.

- 10.7 In terms of point (d) of policy HG5, this relates to land within or adjacent to a settlement that are of historic importance and play a role in the overall historic layout of a village. On this occasion the site is not of any historic importance in terms of a designation or its role in the overall layout of the settlement and this is demonstrated through its exclusion from the Conservation Area. On this basis it is considered that this development would not harm the historic layout of the village and requirement (d) is met.
- 10.8 Finally, policy HG5(e) requires an assessment of the development on the countryside and subsequently the character and/or setting of the village. At this juncture it is important to note that this issue resulted in two of the reasons for refusal of the previous application and also the subsequent dismissal of the appeal, however, it is also important to note that there have been considerable alterations made from the previous scheme which included the complete removal of the hedgerow which runs along the western edge of the site and its replacement with a footpath. On that occasion the Inspector concluded that this "would be a significant jolt to, and indeed cause irreparable harm to, the site and wider area's prevailing character" and furthermore "The widening of the lane itself to create a greater carriageway width along with the creation of footpaths on both sides of the road would be harmful in itself but would add to the harm South Back Lane's pleasant, rural character that I have already identified. Thus, not only would the existing dense roadside hedge be lost as a consequence of the proposal, but the pleasant grass verges would be replaced by pavement. The result, an incongruously urban stretch of carriageway and paving at odds not only with the prevailing character of South Back Lane, but also incongruous in that it would be an isolated stretch of pavement where none exists nor, given the quiet nature of the lane, is it particularly needed."
- 10.9 It is considered that the retention of the vast majority of this hedgerow, except for the new access road, along with the removal of the footpath along South Back Lane from the proposal and thus the protection of the grass verge, means that the harm identified by the Inspector above has been reversed. The site now being restricted to the northern-most part of the field would mean that the majority of the frontage onto South Ings Lane would be unaffected, protecting the rural character that is considered to define the character of this part of the settlement. There would be an inescapable change to the character of the street scene where the access would be punched through the hedgerow but the change to the overall site layout means this would now be opposite a similar access which serves Manor Farm, as well as two semi-detached C20 bungalows, both of which signify the change in character of the street scene from an overtly rural character to one characterised more by residential development. Views of the bungalows would still be evident as one travels north east up South Back Lane, but these

would be limited to the roofscape which would be on the most part against the backdrop of existing residential development in any case. As such, whilst there would be a change in the setting of this part of the village to an extent, this would be minimal given this existing context and managed by the site layout and design of the units so this change will not be harmful.

10.10 All in all it is considered that the changes made to the scheme by way of layout, scale and the retention of existing landscape features have resulted in the harmful aspects of the previous proposal being rectified and the development now meets the requirements of policy HG5(e).

10.11 The above assessment demonstrates that this development complies with all requirements set out in policy HG5 for a windfall housing development and therefore the principle of this development is supported by the Local Plan.

Impact on the Setting of the Tollerton Conservation Area

10.12 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The National Planning Policy Framework requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset. Policy E5 of the Local Plan states that a development will only be supported when "those elements that have been identified as making a positive contribution to the special architectural or historic interest of a conservation area and its setting are preserved and, where appropriate, enhanced, having regard to settlement character assessments and conservation area appraisals.

10.13 As already set out, the Tollerton Conservation Area (TCA) effectively covers this historic core of the village which comprises the buildings either side of Main Street and to the north of Alne Road. Previously the Inspector for the appeal of the other application on the site set out the importance of the gap in built form in the centre of South Back Lane and the "pastoral setting" this open, rural aspect creates which contributes to the setting of the TCA. The Inspector also gave weight to the views across the site to the open countryside to the south and the intervisibility from the PROW to the south of the site and Main Street, across the southern part of the wider parcel of land, ultimately concluding that "Despite the limited scale of the single storey bungalows, they would intrude into, if not completely obscure these views, thereby causing further harm to the rural setting of Tollerton, and failing to preserve or enhance the character, appearance and setting of the CA."

10.14 Taking into account the characteristics that the Inspector gave weight to above, it is considered that the reduction in the size of the site and the retention of the open aspect and intervisibility from the TCA across the southern-most part of the field towards the open countryside to the south east has addressed the previous aspects of the development that were considered to be harmful to the overall setting of the TCA. The "pastoral" character would

be maintained, especially as one travels along the PROW towards South Back Lane, by moving the development boundary further north where it would be seen against the backdrop of the existing modern residential development in that direction and maintaining the open nature of the southern part of the field.

- 10.15 On this basis it is considered that the development would adequately protect the important aspects of the setting of the Tollerton Conservation Area and thus would not lead to harm to the overall significance of the heritage asset. On this basis, the requirements of policy E5 and the NPPF in this regard are met.

Housing Mix

- 10.16 Policy HG2 of the Local Plan seeks to ensure that housing development provides the right type of dwelling in order to meet the needs of the district as a whole. It states (as material) "a proposal for housing development will be supported where...a range of house types and sizes is provided, that reflects and responds to the existing and future needs of the district's households as identified in the Strategic Housing Market Assessment (SHMA) or successor documents, having had regard to evidence of local housing need, market conditions and the ability of the site to accommodate a mix of housing". The Housing SPD is a material consideration and goes in to greater detail on the number of dwellings required depending on the number of bedrooms provided and sets out the following target mix:

- 1 bed - 5-10%
- 2 bed - 40-45%
- 3 bed - 40-45%
- 4 bed - 0-10%

- 10.17 The Housing SPD at paragraphs 3.7 and 3.8 that "Hambleton has very low proportion of bungalows within its existing stock", in particular two-bed bungalows, and therefore "To assist older people to downsize and improve the offer of smaller accommodation the Council will seek bungalow provision where there is an evidenced need".

- 10.18 Overall the proposed housing mix provides a greater amount of 3 bed units than is the target mix. That said, it is important to note that the targets are guidance only and on smaller schemes such as this it wouldn't be mathematically possible to completely meet these targets. Ultimately the development would deliver a scheme of four bungalows, which would help to address the short fall in the districts housing stock, with one of these being a 2-bed unit which is the most desirable.

- 10.19 A number of the objections received by members of the public refer to a perceived imbalance in the number of bungalows that have been provided in Tollerton over recent years. It is important to note that generally housing targets are considered in terms of the district as a whole and not individual settlements and as already set out, there is a very low proportion of bungalows in the district. Nevertheless, in order to ensure this issue is given

appropriate consideration, further figures have been provided by the Councils Monitoring Officer. These show that of the 73 units granted since 2015 (including the 4 proposed in this case), 25 of them have been bungalows - i.e. roughly a third. This demonstrates that there has not been a disproportionate number of bungalows provided in the settlement relative to other house types.

10.20 All in all it is considered that the overall housing mix provided is acceptable and meets the aims of policy HG2 and the Housing SPD.

Design

10.21 Policy E1 of the Local Plan relates to design and requires all development to be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place. It goes on to list a number of principles that will help to achieve this overarching aim including responding positively to context and drawing inspiration from the key characteristics of surroundings, including natural, historic, and built environment, to help create distinctive, high quality and well-designed places.

10.22 Away from the immediate core of the village around the green and Main Street, the design, scale, appearance, and materials of properties becomes more varied. There are examples of small semi-detached bungalows, late C20 two-storey dwellings to the east, and more modern two-storey dwellings recently completed to the north. The design of the proposed dwellings has not changed a great deal since the previous iteration, although two of the units now have a hipped roof design. The dwellings are typical designs that would use a similar palette of materials to the aforementioned recently finished development to the north. In this respect there would be some consistency. Officers previously took the view that the design was overtly suburban and thus not in keeping with the character and appearance of the surrounding area, but this view was dismissed by the Inspector who cited the ununiformed nature of the locality as a reason for the development not representing a harmful stray from the surrounding character. In terms of the overall layout of the site, each unit is within a fairly sizeable plot which are balanced throughout the site. There will be ample amenity space and the site does not appear cramped or over developed. As such, the scale and amount development is appropriate and complies with the requirements of policy E1.

10.23 Another aspect of design is space standards and ensuring the dwellings comply with the guidance set out in the Nationally Described Space Standards (NDSS). This is also a requirement of policy HG2 of the Local Plan. House type A has a GIA of approximately 132m², over the NDSS requirement of 70m² for this house size. House type B has a GIA of approximately 160m², over the NDSS requirement of 95m² for this house size. Finally, house type C has a GIA of approximately 160m², over the NDSS requirement of 95m². As such, the requirements of the NDSS in terms of house size have been met.

10.24 Nothing has changed with the minor re-design of the bungalows that leads officers to a different view than that held by the Inspector and therefore it is considered that the proposal is acceptable on design grounds and complies with policy E1.

Impact on Amenity

10.25 Policy E2 of the Local Plan requires all development to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use. This relates to matters such as mutual privacy, adequate daylight provision, and protection from noise and disturbance.

10.26 The proposed development is considered to meet the above requirements. There is adequate separation distance between the proposed bungalows and the existing surrounding dwellings to prevent any loss of privacy or daylight provision. The nearest dwelling to the development is no. 26 Church Close which sits to the south east of where the end bungalow would be sited. The occupier of this dwelling has objected, citing concerns with the proximity of their dwelling to the development and the fact their extension is not shown on the plans submitted. Whilst these concerns are noted, the end unit on the site would sit side on with no. 26 in a similar way to how neighbouring dwellings typically do. The orientation of the two in relation to one another would ensure no overlooking or loss of privacy and there would be a separation distance of approximately 9m which is considered ample for a side-to-side relationship.

10.27 Concerns have been raised regarding additional traffic and the noise that will be associated with this. By its very nature vehicular traffic is very transient and given the small scale of this development, vehicle movements to and from the site will be very limited. As a result, this will not harm the amenity of nearby residents.

10.28 The development gives way to no concerns in terms of the impact on amenity and is considered to comply with policy E2 of the Local Plan.

Highway Safety

10.29 The NPPF at paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Under the previous application, South Back Lane was judged as being of an unsuitable width to accommodate the additional traffic movements from the development and coupled with poor visibility at the junction with Newton Road to the north east, it was deemed that the development would have an unacceptable impact on highway safety. This position was backed up by the Local Highway Authority. This reason for refusal was then overturned by the Inspector who stated "given the modest scale of the proposal and the limited quantum of vehicle movements attributable to the appeal proposal and taking into account recent

developments on South Back Lane, I am not persuaded that South Back Lane or its junction with Newton Road is inherently unsuitable for the limited amount of traffic likely to be generated by the proposed development."

- 10.30 The vast majority of the objections received to this application express concerns regarding highway safety. This includes reasons such as South Back Lane being too narrow to allow two cars to pass one another, a lack of passing places to overcome this, and the development bringing additional vehicle movement that would exacerbate these issues and increase risk to pedestrians. The Local Highway Authority have removed their objection given the previous Inspector's assessment.
- 10.31 It is accepted that South Back Lane is narrow and does not allow passing places, however, the test is whether the development would have an "unacceptable" impact on highway safety. Given the scheme is for four small dwellings which are highly unlikely to have more than two vehicles per unit, the vehicle movements to and from the site, and thus the additional traffic on South Back Lane, will only increase by a very small amount that will not in the grand scheme of things have an impact on highway safety.
- 10.32 Many of the objections also refer to issues with the physical impact on the condition of the road itself and surrounding grass verges. Whilst these are noted, the limited increase in vehicles using the road as a result of the development means that in reality the additional impact will be negligible. It is also not the applicant's duty to address existing problems with the condition of the road off-site and it is under the remit of the Local Highway Authority to ensure adopted roads are in a well-kept condition. On this basis, this is not a reason for refusal of this application.

Drainage and Flood Risk

- 10.33 Policies RM1, RM2 and RM3 relate to drainage and flood risk and dictate that development should avoid areas at high risk of flooding, should be safe from flooding for the lifetime of the development and not increase the risk of flooding elsewhere. Furthermore, in terms of drainage, the use of SUDs is encouraged unless site conditions means they are not viable and policy RM1 requires foul and surface water flows should be separated with foul water being disposed to a public sewer and the design of the waste disposal system will be safe over the lifetime of the development.
- 10.34 As set out in paragraph 3.3 above, drainage was one of the reasons for refusal of the previous application owing to a lack of information relating to how the site would be drained. It is understood that through the course of the appeal, a Drainage Strategy was submitted which was ultimately deemed acceptable and as such in their Statement of Case, the Council withdrew this as a reason for refusal as it could be dealt with through imposition of a condition. The Inspector shared this view and therefore did not address the matter in any great detail. In contrast to the previous application, a Drainage Strategy has been submitted on this occasion. This sets out that the site is wholly within flood zone 1, which is classified as having the lowest risk of flooding.

Furthermore, it is stated that soakaways would be used, with each unit served by its own private system. The location of these would be determined under building regulations. This is the most sustainable method of surface water management and therefore complies with the aforementioned policies.

10.35 Foul water is to be directed to an existing sewer on South Back Lane which ultimately discharges into a sewer to the north on Newton Road. Several of the public objections refer to a failure in the existing drainage infrastructure in recent times which it is felt will be exacerbated by this development. Whilst these concerns are noted, the applicant cannot be expected to rectify operational issues which are off-site and under the remit of third parties. Yorkshire Water have been consulted on this proposed development and raised no concerns and thus the proposed foul water management scheme is considered acceptable.

10.36 Based on the above it is considered that the proposed drainage scheme would be acceptable to ensure that surface and foul water is managed in a way that is adequate, will be safe for the lifetime of the development, and does not increase the risk of flooding elsewhere. On that basis it complies with policies RM1, RM2 and RM3.

Ecology and Biodiversity Net Gain

10.37 Policy E3 of the Local Plan now requires all development to demonstrate the deliverability of a net gain in biodiversity. The impact of a development on protected species is also a material planning consideration which will be assessed below.

10.38 The applicant has submitted a BNG Report alongside the Landscape Plan to demonstrate how said landscaping would deliver a net gain in habitat units on site. The Landscape Plan shows that tree planting alongside a hedgerow would be provided along the south western boundary of the site, along with tree planting in the northern corners of the site. Grassland with a wildflower seed mix will be planted along the front and rear of the dwellings, along with ornamental shrub planting in the front gardens of the dwellings. All in all this would provide a gain of 8.09% in habitat units and 66.21% in hedgerow units. On this basis, subject to a condition requiring the Landscape Plan to be implemented, it is considered the requirements of policy E3 are met initially. A condition requiring a full Management Plan to set out how the net gain will be secured over the full 30 year period is recommended (see condition 14 below) to ensure the requirements of policy E3 will be met in full.

10.39 A number of the objections refer to concerns with the potential impact on ecology resulting from the development. An Ecological Impact Assessment has been submitted with this application. This concludes there may be some impact on protected species at site level, but these would not be significant and with simple mitigation measures such as limiting working times and restricting external lighting the impact would be managed to an acceptable level.

10.40 Specific concern has been raised in relation to the protected trees to the north east of the site. Whilst this is noted, these trees are to be retained and owing to the distance between the trees and the dwellings, there is very limited risk during construction. On this basis, the impact on the trees would be acceptable.

10.41 Overall it is considered the development will have an acceptable impact on ecology.

11.0 PLANNING BALANCE AND CONCLUSION

11.1 The proposed development meets the requirements of policy HG5 and thus can be supported in principle as a windfall housing development. Owing to the re-design of the layout and the reduction in the scale of the development, the proposal would maintain the existing character and appearance of the surrounding village, South Back Lane in particular, and the setting of the Tollerton Conservation Area. The development would provide an acceptable housing mix and help to address the shortfall in bungalows in the district. The matters relating to highway safety and drainage have been suitably addressed and there are no other technical issues with the development. On this basis, it is recommended that this application be approved.

12.0 RECOMMENDATION

12.1 That Permission be **GRANTED** subject to the conditions set out below:

Condition 1

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

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

Condition 2

The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 2943-1-002 G, 2943-1-004 B, 2943-1-003 B, 2943-1-006 A, 2943-1-005 C, 2943-1-011 and 2943-1-010 A; received by the Local Planning Authority on 05.09.2023 and 06.10.2023; unless otherwise approved in writing by the Local Planning Authority.

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

Condition 3

No part of the development shall be used after the end of the first planting and seeding seasons following the first occupation or completion of the building(s) whichever is the sooner, unless the landscaping scheme shown on the landscaping plan numbered MR22-113/101 Revision B received by North Yorkshire Council on 02.10.2023; has been carried out. Any trees or plants which within a period of 5 years of planting die, are removed or become seriously damaged or diseased, shall be replaced with others of similar size and species.

Reason: In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties.

Condition 4

Prior to development commencing details of the existing ground and floor levels of site and neighbouring buildings and the proposed ground and finished floor levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The levels shall relate to an identified fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

Reason: To ensure the development sits comfortably within the street scene and will not give way to overshadowing or loss of privacy for neighbouring properties.

Condition 5

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

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

Condition 6

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

- The access to the site must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 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.
- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the highway and must not be able to swing over the existing or proposed highway.
- The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing public highway.

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.

Condition 7

There must be no access or egress by any vehicles between the highway and the application site until splays are provided giving clear visibility of 25 metres measured along both channel lines of the major road (South Back Lane) from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

Condition 8

No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the approved drawing reference Proposed Site Layout drawing number 2943-1-002 G. 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.

Condition 9

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:

- Details of any temporary construction access to the site including measures for removal following completion of construction works;
- Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- The parking of contractors' vehicles;
- Areas for storage of plant and materials used in constructing the development clear of the highway;
- Details of site working hours;
- Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity.

Condition 10

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

Reason: In the interest of satisfactory and sustainable drainage.

Condition 11

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

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

Condition 12

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

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

Condition 13

The mitigation measures outlined in section 6 of the Ecological Impact Assessment prepared by MAB Environment and Ecology dated March 2023 shall be implemented in full, including the following:

- The removal of the hedgerow section will be scheduled to avoid the bird breeding season, which runs from March to the end of August. If this is not possible, then a check for active nests should be carried out immediately before any works to the affected areas begin. If active nests are found, works will be delayed until all chicks have fully fledged.
- Works should be restricted to daylight working. The hedgerows and the mature trees along the northern perimeter should not be illuminated post-development to maintain the ecological functionality of the features for potential foraging bats.

Reason: To ensure no harm arises to protected species.

Condition 14

Prior to the development hereby approved coming into use, a Management Plan setting out how the landscaping will be managed moving forward, including periodical review and monitoring, in order to ensure the specified net gain in biodiversity will be achieved for the 30 year period, shall be submitted to the Local Planning Authority. This Management Plan must then be implemented in full.

Reason: To ensure the requirements of policy E3 are met in full.

Condition 15

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

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

Target Determination Date: 20 October 2023

Case Officer: Mr Nathan Puckering
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