

North Yorkshire Council

Community Development Services

Skipton and Ripon Area Constituency Committee

05 DECEMBER 2023

ZC23/03777/FUL– ERECTION OF 1 NO. SELF-BUILD 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

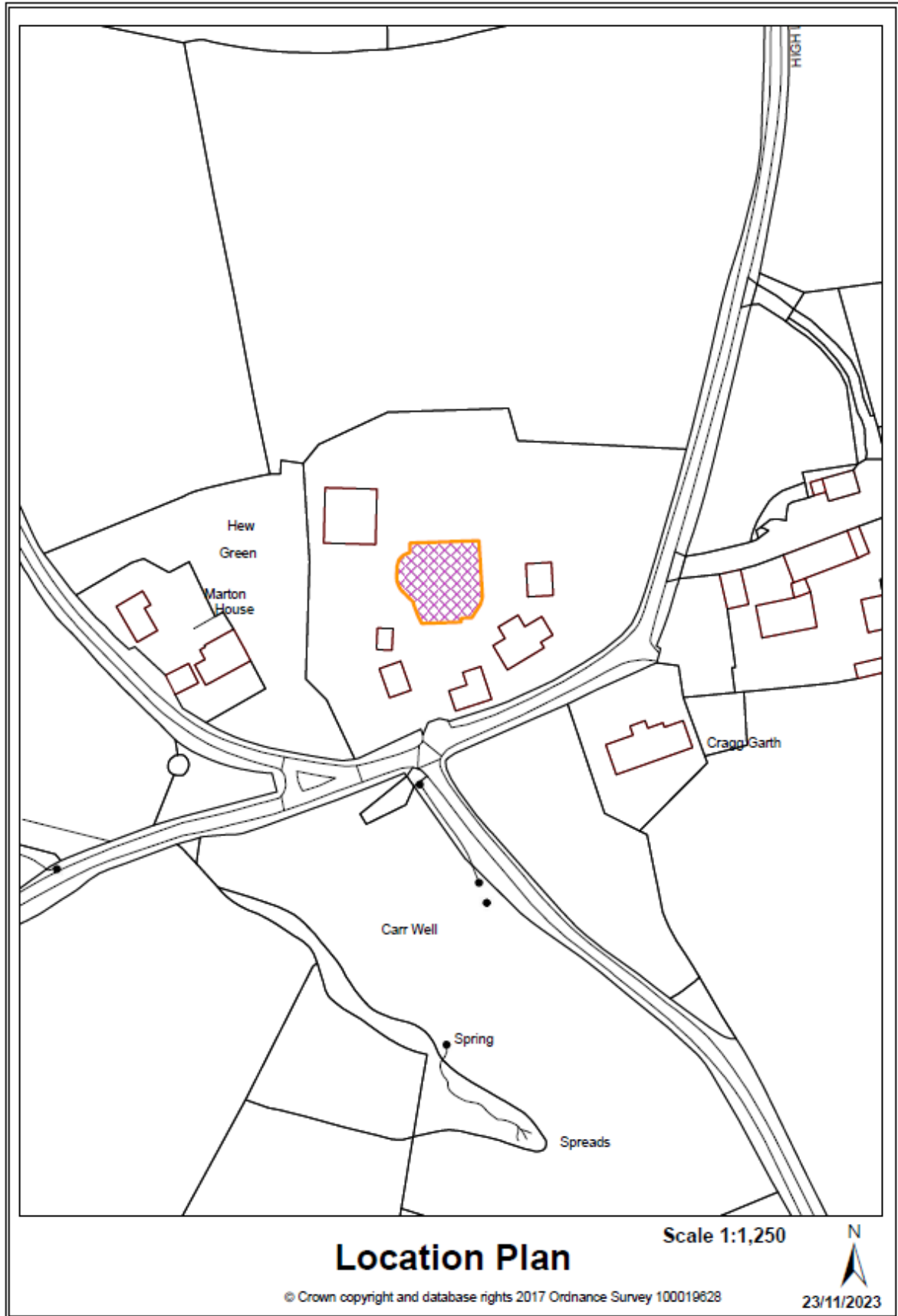
1.0 Purpose of the Report

- 1.1 To determine a planning application for the erection of 1 no. self-build dwelling on land at Hew Green Farm, High Lane, High Birstwith, HG3 2JL.
- 1.2 This application is brought to the Area Planning Committee to ensure consistency of decision making because the previous application on this site was brought to the committee.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be REFUSED

- 2.1. This application seeks Full Planning Permission for the erection of 1 no. self building dwelling.
- 2.2. Permission was granted at appeal for the conversion of a building to a dwelling at this site. However, the building has now been substantially demolished and all that remains is one full wall and two gable returns.
- 2.3. Subsequent applications for the erection of a market house dwelling on the site and for the conversion of a building on the site have been recently refused.
- 2.4. The site is located outside defined development limits in ‘open countryside’, where the principle of new build housing is not supported. The site is located in the Nidderdale National Landscape (the new name for the Nidderdale AONB) (AONB). The provision of self-build plots is considered to carry significant weight in the planning balance; however, it is not considered to outweigh the harm of the proposal in relation to its unsustainable location. which would be contrary to national government policy and Local Plan Policies GS2 and GS3 and as such the proposal would undermine the growth strategy for the area.



3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found [here](#).
- 3.2. There are 5 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 Withdrawn 29.4.21
- 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 24.5.23
- ZC23/02678/FUL Part conversion/part new build of Agricultural Building to form a new dwelling - revised scheme Refused 07.09.2023

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 Permission was granted on appeal for the conversion of a cow shed to a dwelling 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 application site is outside defined development limits established in the Local Plan and is therefore located in 'open countryside' for planning purposes. The site is located within the Nidderdale National Landscape - AONB.

5.0 Description of Proposal

- 5.1. This application seeks Full Planning Permission for the erection of a self-build dwelling.
- 5.2. The design of the proposal remains the same as that proposed under the recently refused application for the part conversion/part new build property on the site under case reference ZC23/02678/FUL. The reason for the refusal of that application was:

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.

- 5.3. This application differs from the recently refused application in that it seeks permission for a self-build dwelling and is submitted with a legal agreement stating that the building would be a self-build dwelling; would be occupied by persons who had a primary input into the design and intend to live in it for a period of at least 3 years.

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
- Self Build and Custom Housebuilding Update Report January 2023
- Self and custom housebuilding guidance October 2021

7.0 Consultation Responses

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

- 7.2. **Parish Council:** awaiting comments

- 7.3. **Environmental Protection:** Recommend conditions in relation to contamination and refuse.

- 7.4. **Highways:** Recommend conditions

7.5. **Yorkshire Water:** no comments to make

Local Representations

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

7.7. Support:

- Existing site is an eyesore.
- Good design
- Small dwelling in an area of large houses
- Positive impact on the AONB
- Need for self-build plots

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
- 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 2023 (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 Local Plan area, 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 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.
- 10.5. 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
- 10.6. 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.
- 10.7. 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").
- 10.8. With this in mind the proposal does not meet any of the exceptions set out in paragraph 80 of the NPPF and represents a dwelling in an isolated location and thus there is not considered to be any national or local policy which would support the proposed development in this location.
- 10.9. 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

- 10.10. The proposal is indicated to be a self-build development within the submitted CIL form 1. Local Plan Policy HS3: Self and Custom Build Housing requires self and custom build housing plots to be provided on sites of 500 dwellings or more, nevertheless the Council has a duty to meet the demand for self and custom build housing identified on our Register. It is recognised that small windfall sites will continue to play a role in

providing a source of supply during the plan period. With regards this enquiry the proposal would see 1 self-build plot delivered on such a site.

- 10.11. For the plot to be fully considered to meet the demand on the Register assurance would be needed through either a condition or S106 agreement/unilateral undertaking that the plot would be self-build rather than just a market dwelling (which could be sold onto builders). Occupants would be required to live there for three years before selling. The application includes a legal agreement in respect to self-build. Any approval for a self-build dwelling in this location would need to be subject to the Council entering into a legal agreement with the applicant in compliance with the Self Build and Custom Housebuilding Act.
- 10.12. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) at 2A sets out the duty to grant planning permission which requires an authority to give suitable development permission in respect of enough serviced plots land to meet the demand on the self-build and custom housebuilding in the authority's area arising in each base period.
- 10.13. The council have held a Self and Custom Housebuilding Register since April 2016, the information held on the register sets the demand for self and custom housebuilding in the Local Plan area, which the council use when carrying out our planning, housing, land disposal and regeneration functions.
- 10.14. The register data fed into the preparation of the Local Plan and the council have a self and custom build housing policy. Policy HS3: Self and Custom Build Housing requires strategic sites of 500 dwellings or more to provide at least 5% of dwelling plots for sale to self-builders subject to demand being identified by the council, by reference to the council's Self and Custom Build Register.
- 10.15. There are currently two planning applications in with the council for strategic sites which are proposing to deliver self and custom build plots under Policy HS3.
- 10.16. The justification text to the policy acknowledges that the policy refers to the delivery of plots on strategic sites, but it is expected that a proportion of self builds will come forward on small sites and single plots on infill sites and sites on the edge of settlements.
- 10.17. The Council acknowledged that the demand data held on the Register was not robust therefore a new Part 1 and Part 2 register, which included additional questions in relation to location and plot preferences was introduced on the 31 October 2021 at the start of Base Period 7. For entry onto the Part 1 register the applicant must be able to prove they have a local connection, they are also required to pay an administration fee in addition to meeting the minimum national criteria; entry onto Part 2 does not require a local connection or entry fee but applicants must meet the national minimum criteria.
- 10.18. In addition, over the summer of 2022 the council undertook a review of the 2016-2021 register (which covers Base Periods 1-6) emailing out to all those on the register to ask if they were still actively seeking a plot, to ensure contact details were up-to-date, requesting further information on plot preferences and identifying duplicate entries.

- 10.19. Those on the register were given 28 days to complete an up-date form online, regular reminders were sent out. The review closed on the 12 July. 194 respondents confirmed they are still seeking a self or custom build plot.
- 10.20. As set out councils are required under the Act to give suitable development permission in respect of enough serviced plots land to meet the demand on the self-build and custom housebuilding in their area.
- 10.21. The latest monitoring report states at paras 7.2 to 7.4:

The review concluded that the overall demand to be delivered by 30 October 2022 was 352 plots and that 292 plots have been permissioned to help meet that demand. This gives a shortfall of 60.

Looking ahead to Base Period 8 (31 October 2022 – 30 October 2023) the demand to meet by the 30 October 2023 is 381 plots; a current shortfall of 89.

However, there are 5 strategic planning applications pending which will deliver self-build serviced plots under Policy HS3. It is expected these sites, once approved, will deliver housing in phases, with self-build plots also subject to phased delivery

- 10.21 The contribution of self-build units to meeting the needs of the Register is therefore a material consideration in the assessment of this proposal. The provision of self-build plots is considered to carry significant weight in the planning balance.
- 10.22 It is, however, expected that self-build plots would be provided within or close to existing sustainable settlements in order to meet the sustainability objectives set out within the NPPF.
- 10.23 The proposal is for a self-build dwelling in an unsustainable location with no access to services or facilities and it is not considered that the location is therefore appropriate for a self-build dwelling.
- 10.24 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 National Landscape (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 area.
- 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 it is of 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. The building is not attractive in its present condition, and the proposed dwelling would be an improvement on the remaining structure.
- 10.27. 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 and a positive contribution to the AONB, however, a similar positive improvement could be achieved through the restoration of the site and the demolition of the remaining walls.

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 the event of a planning approval 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 on highway safety. Conditions are however recommended by the Highways Authority.

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.

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.
- 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 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. Any approval should include a condition requiring details of the air source heat pump and that the proposal is undertaken in accordance with the sustainability benefits set out in the planning statement.

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.

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 self-build 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.

11.6. On balance, whilst the proposal would provide 1 no. self-build dwelling; and would lead to an improvement in terms of the visual appearance of the AONB, it is not considered that these benefits would outweigh the harm of permitting a new dwelling in an unsustainable location isolated from services and facilities.

12.0 RECOMMENDATION

12.1 That planning permission be REFUSED for the following reasons:

- i. Whilst the proposal would provide 1 no. self-build dwelling it is not considered that this would outweigh the harm of creating 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 area set out in Policies GS2 and GS3 of the Local Plan.

Target Determination Date: 19.12.23

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