

North Yorkshire Council

Community Development Services

Skipton and Ripon Area Constituency Committee

ZC23/02361/FUL – CHANGE OF USE OF AGRICULTURAL FIELD TO DOG WALKING FIELD, WITH ASSOCIATED GRAVEL CAR PARKING AREA AT FIELD AT RAILER BANK, MICKLEY, NORTH YORKSHIRE, ON BEHALF OF MS L FURLONG

Report of the Corporate Director – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a planning application for the proposed change of use of an agricultural field to a dog walking field, with associated gravel car parking area on a field at Railer Bank, Mickley.
- 1.2 This application is brought to the Area Planning Committee because it is considered to raise significant planning issues that make it appropriate for the application to be considered by the Planning Committee.

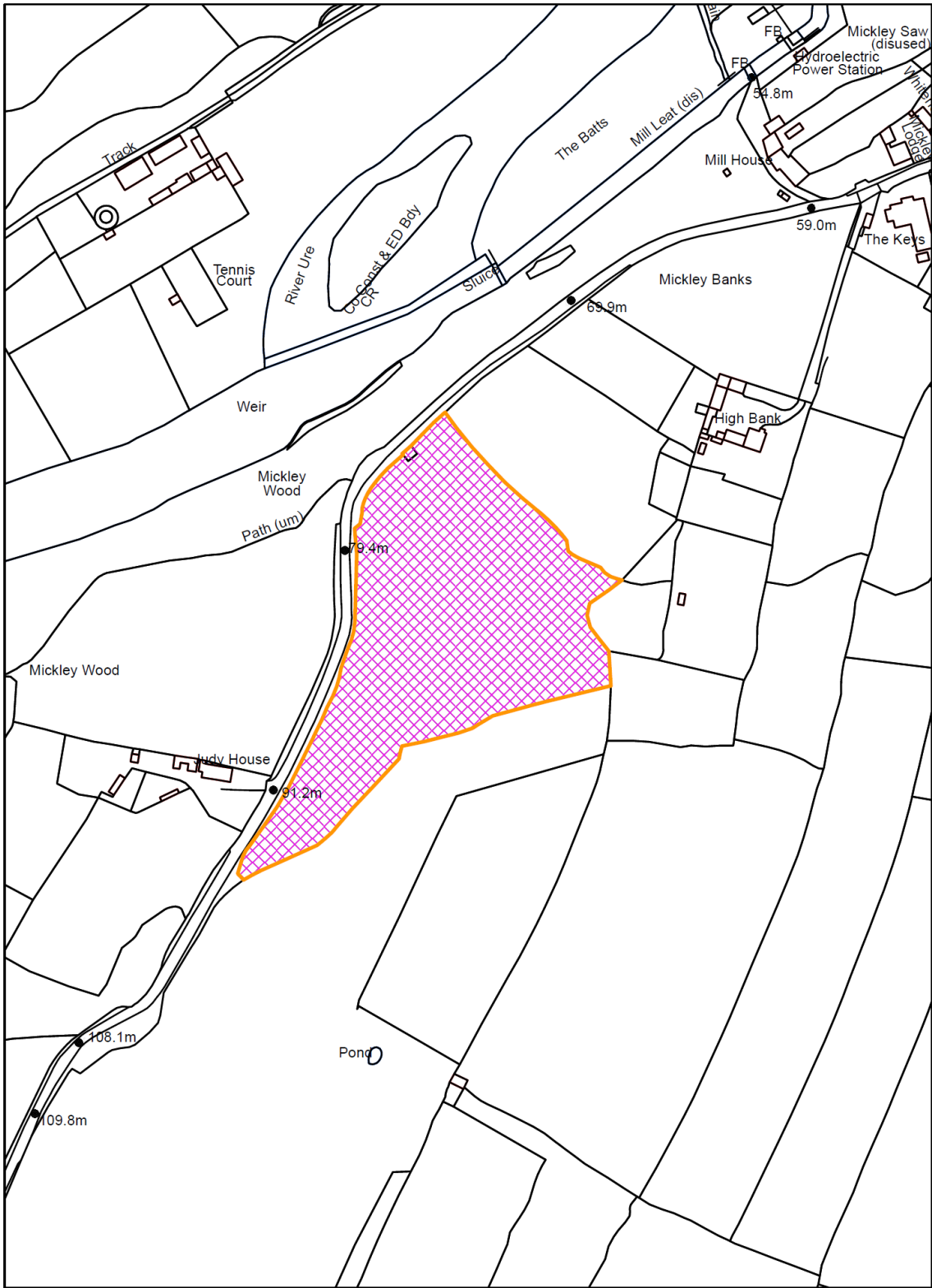
2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be REFUSED.

- 2.1 The application seeks full planning consent for the change of use of an agricultural field to a dog walking field, with associated gravel car parking. The proposal seeks the installation of 2.2-metre-high fencing to the perimeter of the site with proposed additional tree planting to the north and south-eastern boundaries. The site will be accessed via an existing access point to the south-west of the site, off Railer Bank.
- 2.2 Policy GS2, Growth Strategy to 2035, of the Local Plan sets out the growth hierarchy for the area identifying settlements, centers, and villages where development should be focused. Development limits for places in the settlement hierarchy are identified under the provisions of Policy GS3. The proposal lies outside of development limits as identified in Policy GS3. Policy GS3 states that outside of development limits, proposals for new development will only be supported where expressly permitted by other policies of the Local Plan or a neighbourhood plan or national planning policy.
- 2.3 The application site is located within the Nidderdale National Landscape (the new name for the Nidderdale Area of Outstanding Natural Beauty (AONB)), just south of the village of Mickley and is bordered by pastureland, which is occupied by grazing sheep and breeding ewes. The perimeter of the site is currently bound by vegetation for the most part, with some exposed sections to the north-western

perimeter of the site, adjacent the public highway (Railer Bank), sparse sections to the lower portion of the existing vegetation in place along the northern boundary which adjoins the neighbouring field to the north, and along the south-eastern boundary of the site which abuts the public right of way (15.7/35/1). The public right of way borders an approximate 100 metres section of the south-eastern boundary of the site. There are also two nearby residential properties, Judy House to the west and High Bank to the north-east.

- 2.4 This application has presented a number of issues which are various, complex and sensitive. On balance, whilst the applicant has worked with the Local Planning Authority and the consultee recommendations in order to mitigate the impacts of the proposals and the level of disturbance to the breeding ewes and grazing sheep in the neighbouring fields, it is not considered that any level of mitigation in this instance could eliminate the issues which will likely arise surrounding sheep worrying and noise disturbance.
- 2.5 The proposal would therefore be contrary to the requirements of Local Plan Policies GS3, HP7 (criteria D, iv), EC3 (criteria I) HP4 and GS6.



Location Plan

Scale 1:2,500



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1/8/2024

3.0 Preliminary Matters

- 3.1 Access to the case file can be found [here](#)
- 3.2 Amended plans have been received during the course of the application including the relocation of the car parking area away from the canopy and root protection area of the veteran Beech Tree and pulling back of the fence line away from the south-eastern boundary. Further revisions were submitted to provide additional tree planting along the northern and south-eastern boundaries, additional waste bins and a revised Site Management Plan following consultee recommendations from Environmental Health.
- 3.3 The following applications and appeals are considered relevant to this proposal:
- 3.4 None relevant.

4.0 Site and Surroundings

- 4.1 This application relates to a parcel of land situated to the southwest of the village of Mickley. The site lies adjacent the Hackfall Woods to the west, which provides a public right of way (15.7/35/1) through the adjacent neighbouring property (Judy House) with the public right of way continuing from the south-western edge of the application site. The public right of way follows the south-western boundary of the site for approximately 100 metres before it trails off in an easterly direction. The topography of the land inclines at a steep gradient from west to east. The perimeter of the site is predominantly bound by dense vegetation with some open sections along the western and southern boundaries adjacent the public highway (Railer Bank) and public right of way, forming part of the Ripon Rowel walking route. The land was previously used for agricultural purposes to graze sheep and borders neighbouring agricultural fields which also occupy grazing sheep and breeding ewes.
- 4.2 The application site is located outside of development limits identified in the Local Plan and is also situated within the Nidderdale National Landscape. The site is also located with the Vale Fringe Valley Farmland (Area 43) of the Council's local Landscape Character Assessment.

5.0 Description of Proposal

- 5.1 The proposal seeks full planning consent for the change of use of an agricultural field to a dog walking field, with associated gravel car parking. The proposal seeks the installation of 2.2-metre-high fencing to the perimeter of the site with proposed additional planting to the northern boundary.

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 Policy 2014-2035, adopted March 2020

Emerging Development Plan – Material Consideration

- 6.3. The Emerging Development Plan for this site is listed below.

- The North Yorkshire Local Plan. 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 2023
- National Planning Practice Guidance
- National Design Guide
- Nidderdale AONB Management Plan
- Landscape Character Assessment Harrogate District

7.0 Consultation Responses

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

- 7.2 **Environmental Health** - advised that amendments were made to the Site Management Plan to include a number of control measures and a complaints system which should be reviewed at least annually. Amended details have been provided.

- 7.3 **NYC Planning Services** – no comment.

- 7.4 **Parish Council** – objects for the following reasons:

- 6ft metal fencing not in keeping with surrounding local environment and would be highly visible
- highway safety
- traffic generation
- noise and disturbance – grazing and breeding ewes in surrounding fields
- parking / landscaping – parking area would transform the natural landscape. Parking area can only accommodate 3 vehicles.
- nature conservation – the application states the proposals will not affect “woodland, field hedgerows, and or lines of trees with obvious connectivity to woodland or water bodies”. Contrary to this statement the site is encircled by hedges growing into trees and forming a canopy over the road to Hackfall and the western edge is of the ridge is on a ridge of calcareous springs. The site and area in general is full of wildlife that will be affected and prevented thoroughfare through the narrow gauge metal fencing. Badgers, hares, otters and deer have been seen in the vicinity of the site.
- hazardous materials/smells - dog excrement contains pathogens that can cause harm to wildlife and other animals especially grazing sheep.
- local, strategic, regional & national planning policies – the site is within the Nidderdale Area of Outstanding Natural Beauty and the application seeks to change the landscape from agricultural to an area which will be fenced with a hard surfaced parking area. This will not be in keeping with the AONB and its aim in preserving the landscape.

7.5 Further comments –

In addition to the above objections the Parish Council would also make the following observations:

- The application suggests there is a need for this facility in the area. There are already many public rights of way in the area and there is already a similar dog walking area less than two miles away, Dogzone, Musterfield Lane, HG4 3JQ, so would question the need for another so close by.
- There is no mention of how the site will be staffed or if a member of staff will be on site to "police" activities and number of dogs/cars etc.
- Land Registry title number NYK429686 allows shooting/hunting rights over the site, this has the potential to cause conflict.
- Concern has also been raised around lack of toilet facilities for those using the site.

7.6 Local Highway Authority (16.11.2023) - Following amended plans which sought to alter the location of the proposed site plan, further swept path analysis and splay plans have been provided and assessed by the Local Highway Authority - no further objections were raised, and conditions have been recommended.

- 7.7 **AONB Joint Advisory Committee** - The Joint Advisory Committee notes the findings of surveys showing a sharp increase in dog ownership in recent years. Wildlife organisations nationally are concerned about the impact of dogs in nature-rich areas even when apparently under control and confined to paths while farming organisations, alongside individual farmers in the immediate vicinity, continue to report wholly unacceptable and irresponsible behaviour of some dog owners leading to livestock death and severe injury. Controlled and dedicated spaces to allow owners to exercise their dogs is a valid if only partial response to these challenges.
- 7.8 The effect of the proposed change of use outlined in this application on the character of this part of the AONB will be relatively limited. However, any future planning consent must be subject to conditions designed to ensure strict enforcement of the operating framework as set out in the application including numbers of dogs, advance booking procedures and hours of operation. The Joint Advisory Committee would advise that a proposed fencing specification should be submitted to the planning authority prior to any work on site so that the authority can ensure fencing materials and the proposed method of construction are compatible with the deeply rural setting of the site. The planning authority should make it clear that advertising and other forms of signage, including directional signs, should be subject to a further application and that no structures may be introduced onto the site without prior approval.
- 7.9 **AONB Joint Advisory Committee** - following provision of fencing specification details, the JAC were re-consulted. No objections were raised to the fencing specification details.
- 7.10 **Principal Ecologist** - The field which is the subject of this application is predominantly a species-poor semi-improved pasture, which is typical of the local area. The disturbance to wildlife which would be caused by a controlled number of dogs will be generally limited to the immediate location and the times when the dogs are present. The field is proposed to be internally fenced around the site boundaries to keep the hedgerows, which are likely to support nesting birds and other wildlife, separate from dogs. The fence now also encompasses the steep sloping bank opposite the site entrance, to allow an area for wildflowers and pollinators to remain undisturbed. The access and car park have been moved slightly southwards to avoid the canopy and root system of the large veteran beech tree which is at the foot of bank and which will be separated from the small number of cars by the fence. The proposed use of the area as a dog-exercise area is unlikely to have a significant adverse impact on local wildlife, given these safeguards.
- 7.11 **National Sheep Association** - Objects - The proposal will cause unacceptable disturbance, stress, and anxiety to the sheep and the farmer. There are serious risks of escape, causing physical and stress related damage to the sheep. Even

when secure, these dogs will be running around, chasing and barking - all behaviours that will stress any sheep in sight of hearing them.

7.12 Police Architectural Liaison Officer - no objections.

Local Representations

7.13 93 letters of representation have been received at the time of writing. Some members of the public provided multiple letters of representation, some with detailed supporting information. 63 letters object and 30 letters support with comments summarized below. The full representations can be viewed on the case file on the Council's website.

7.14 Objections:

- A dog walking facility already exists a short distance away
- Existing dog walking facility appears to have capacity to absorb additional customers
- No social or economic need
- There is no new employment associated with this application

- Rare sheep located in neighbouring field – noise disturbance could cause distress and loss of lamb before they are born
- Danger to livestock

- The peace and tranquility of the village will be disrupted

- Noise pollution of barking dogs for residents in the village and surrounding neighbours
- Unsociable opening hours for the nearby neighbouring properties
- The site is close to two residential properties

- Impact on AONB
- Altered outlook on the natural rural landscape
- The fence will detract the views across the field to the woods around and across the Vale of York to the North York Moors
- Portable toilet on site? Not in keeping with environment
- Hardstanding would be out of keeping with the area and AONB
- Concern regarding additional advertising boards and the additional impact this will have on the appearance and character of the AONB
- Impact of change of use on 7 mature trees on site

- The field is overlooked by the adjacent public right of way – impact on AONB and its setting

- Public rights of ways perimeter the site which can be used for dog walking
- Impact on the enjoyment of the Ripon Rowel Way

- Lack of ecological investigation submitted – nesting birds, bats and other wildlife species inhabit this area
- Impact on wildlife – badgers and other species inhabit this area
- Impact of wildlife and biodiversity in nearby nature reserve
- Impact on the SSSI and nature reserve adjoining High Bank
- Loss of Flora and Fauna

- Faeces left behind and its impact on the local and natural environment (get into waterways)
- Odour emissions from faeces which has not been picked up and binned
- Odour intensified by westerly prevailing wind direction towards Mickley village
- The site is at the western edge of the calcareous springs

- Risk of fire from dead hedgerows and shrubs
- Impact of increasing carbon emissions and climate change
- Safety of the site in icy / wet conditions due to topography of land

- Risk and harm to humans and animals from escaped dogs
- Limited to no phone signal – no contact if emergency on site

- Traffic generation on narrow single-track road with limited visibility
- Traffic generation and impact on pedestrian safety
- Danger to cyclist safety
- Danger to the safety of horses using Railer Bank
- No street lights or footpaths along Railer Bank, which would add to the impact on pedestrian and vehicle safety
- Lack of turning facilities within the proposed car park
- No room in the village to facilitate additional parking for the users of the site

- Surface water cannot be disposed by a mains sewer – therefore poses risk of contamination to humans and animals
- Availability of fresh water on site for the dogs?
- How will the grass be maintained without the sheep? Steepness of land and lawn mower?
- Shooting rights over the field – the proposal will limit accessibility to the land
- Residents in support of the application are not local

7.15 Support:

- This an opportunity to bring services to more dog owners in a safe and secure way
- Will provide a safe place for dogs to run around off-lead
- Increased dog welfare
- Dogs are walked along this route anyway
- Help to get antisocial and badly trained dogs off the public footpaths

- Supports the district's economy
- Supports a small business

- Hardstanding and fencing not out of keeping with AONB
- Fences being replaced and land being maintained would be good for the area

- Leaves other public open spaces to be enjoyed without dogs

- Field can be used by locals which will limit traffic generation
- Parking is only for 3 cars to traffic impact is negligible

- Re-planted hedgerows will increase wildlife
- Field kept in its natural state
- Maximum of 12 dogs is appropriate

8.0 Environmental Impact Assessment

8.1 Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

8.2 The development proposed falls within the description at 10 (b) of Schedule 2 to the above Regulations. In the opinion of the Local Planning Authority, having taken into account the criteria in Schedule 3 to the above Regulations, the proposal would not be likely to have significant effect on the environment in the context of the EIA Regulations for the following reasons:

8.3 Although located within a designated sensitive area (the Nidderdale National Landscape, (formerly known as the Nidderdale Area of Outstanding Natural Beauty, AONB), there would be no likely significant impacts in terms of noise, waste, contamination, flooding, archaeology, ecology, heritage issues or complex construction. Given the nature, scale and location of the proposal, the impacts of the development are unlikely to be significant in the context of the EIA Regulations. The Proposed Development is therefore not EIA Development.

9.0 Main Issues

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

- Principle of Development
- Impact on character and appearance / landscape character / AONB
- Residential Amenity
- Highway Safety and Parking Provision
- Impact on Enjoyment of Public Right of Way
- Ecology
- Drainage
- Land Use

10.0 **ASSESSMENT**

Principle of Development

- 10.1 The Harrogate District Local Plan 2014-2035 was adopted by the Council on 4 March 2020. The Inspectors' Report concluded that, with the recommended main modifications which are set out in his report, that the Harrogate District Local Plan satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) and meets the criteria for soundness in the NPPF. All the policies in the Local Plan can therefore be given full weight.
- 10.2 Local Plan Policy GS2, Growth Strategy to 2035, sets out the growth hierarchy for the area, identifying settlements, centres and villages where development should be focused. Development limits for places in the settlement hierarchy are identified under the provisions of Policy GS3. The proposal lies outside of development limits as identified in Policy GS3. Policy GS3 states that outside of development limits, proposals for new development will only be supported where expressly permitted by other policies of the Local Plan or a neighbourhood plan or national planning policy.
- 10.3 This application seeks consent for the proposed change of use of an existing parcel of land to the south-west of the village of Mickley, which currently operates as agricultural land and seeks to change its use to provide an enclosed dog walking field. The application will introduce a new recreational facility and employment development within the countryside and therefore relates directly to Local Plan Policies HP7 and EC3.
- 10.4 Criteria D of Local Plan Policy HP7 states:
- Proposals for sport and recreational activities that require a countryside location will be permitted in the open countryside outside of development limits (or the built up area of settlements) only where they:*
- i. *Cannot be located adjacent to a built up area; and*

- ii. *Are of a scale and nature appropriate to their landscape setting; and*
- iii. *Do not involve a significant number or size of buildings or structures; and*
- iv. *Would not cause excessive noise disturbance or light pollution to other users of the countryside, land uses or residents in the area or adversely impact on wildlife; and*
- v. *Would not give rise to significant traffic congestion or road safety problems.*

- 10.5 The proposal relates to a parcel of land situated to the south-west of the village of Mickley, which is located within the AONB. The land in question covers an approximate area of 1.87 hectares and is predominantly screened by hedging and vegetation along the perimeter of the site. The site lies adjacent with the public highway to the west, Railer Bank, and follows the existing field boundary line which tapers in and narrows towards the south of the site. It is intended to utilise the existing access point into the site with proposed associated hardstanding, which will provide parking provision for up to 3 vehicles. The proposal will also see the erection of 2.2 metres high fencing to the perimeter of the site. Following recommendations forwarded by the Council's Principal Ecologist, plans have since been amended to pull back the fence line to the south-eastern boundary of the site to enable the preservation of wildlife beyond, and the repositioning of the proposed car parking area away from the canopy of the large veteran Beech Tree to ensure minimal disturbance.
- 10.6 The nature of the proposal would require a field of a substantive size to carry out its intended purpose to provide a secure field for a number of off-lead dogs. A proposal of this nature would also need to be situated away from built up areas in order to protect neighbouring amenity with regards to noise disturbance. Given the nature of the proposal, the siting of the proposal away from a built-up area in this instance would broadly be considered appropriate in relation to Part (D)(i) of Policy HP7.
- 10.7 As noted above, the application site is located within the AONB and therefore the Local Planning Authority will only permit development which does not detract from the natural beauty and special qualities of the AONB and its setting as detailed in Local Plan Policy GS6. The application site is also bordered by pastureland, which occupies grazing sheep and breeding ewes. There are also two nearby residential properties, Judy House, located approximately 33 metres to the west of the application site, and High Bank, located approximately 83 metres to the north-east of the application site.
- 10.8 The proposed site will see the creation of hardstanding covering an approximate area of 19 metres by 17 metres, alongside the erection of 2.2 metres high fencing to the perimeter of the site comprising of timber posts with wire mesh to allow for the growth of the surrounding vegetation. The proposed fencing will

mostly sit behind existing established vegetation, however, there are some exposed sections to the northwestern perimeter of the site, adjacent the public highway (Railer Bank), and along the south-eastern boundary of the site which abuts a public right of way. Both exposed sections will be visible from public vantage points. The AONB Joint Advisory Committee (JAC) have advised that a proposed fencing specification should be submitted to the local planning authority prior to any work on site so that the authority can ensure fencing materials and the proposed method of construction are compatible with the deeply rural setting of the site. Further fencing specification details were provided and the AONB JAC re-consulted, it was noted that the fencing specification details provided were considered appropriate in this rural setting. Whilst there will be some exposed sections surrounding the perimeter of the site where the proposed fencing will be visible, this is limited. It is also noted that the proposed fence line to the south-eastern boundary has been pulled back and will no longer directly abut the public right of way which runs alongside the south-eastern boundary of the site. It is not considered that the level of exposed fencing will have a detrimental impact on the character or appearance of the area or surrounding landscape.

- 10.9 The majority of the proposed hardstanding will remain mostly unseen from the public vantage points along Railer Bank given the established vegetation and hedging it will sit behind. No excavation or engineering works are required. Sample details of the proposed hardcore have been provided and is considered acceptable in this rural setting. Thus, it is not considered that the proposed hardstanding will detrimentally impact the character or appearance of the area or surrounding landscape and will therefore satisfy the requirements of Local Plan Policy HP7, criteria D (i).
- 10.10 The proposal does not intend to erect a significant number of associated buildings or structures (and therefore satisfies the requirements of Local Plan Policy HP7, criteria D (ii)).
- 10.11 The nature of the proposed development will likely see an increase in noise level and traffic generation and therefore assessment of the impact on highway safety in relation to paragraph (D)(v) of Policy HP7, neighbouring amenity and the impact of the proposal on the livestock located in the surrounding fields in relation to paragraph (D)(iv) of Policy HP7 is required.
- 10.12 With regards to the impact the proposal will have on highway safety, there have been a number of concerns raised by local residents regarding the increase in traffic generation through the village of Mickley and along Railer Bank, which is a narrow, bending, single track road. The proposal seeks to utilise the existing access point onto Railer Bank and create hardstanding in the form of gravel with no excavation or engineering work required. The hardstanding will provide parking provision for up to 3 vehicles. The planning statement submitted in support of the planning application details that the field can be used for up to 12

dogs with a maximum ratio of 6 dogs to 1 person. Upon consultation with the Local Highway Authority, and the submission of additional swept path analysis and visibility splay plans by the agent, no objections have been raised by the Local Highway Authority, however, a number of conditions have been recommended to ensure highway safety is maintained. As noted above, following recommendations put forward by the Council's Principal Ecologist, the car parking area has been re-positioned to ensure minimal disturbance to the existing veteran Beech Tree on site. The Local Highway Authority were re-consulted and no further objections were raised. Subject to compliance with the recommended conditions, it is not considered that the proposal would give rise to a prejudicial impact on highway safety and would therefore be compliant with the requirements of criteria D (v) of Policy HP7.

- 10.13 The nature of the proposal to provide an enclosed dog park would likely see an increase in the level of noise in this part of the local area. As noted above, the surrounding fields are pastureland with the neighbouring field to the north occupying breeding ewes and the neighbouring field to the east / south-east often occupying grazing sheep. A number of representations have been received strongly objecting to the proposal regarding the impact the proposal will have on the sheep in the neighbouring fields. An objection has also been received from the National Sheep Association (NSA) concerning the negative impact the proposal will have on the physical and mental well-being of the sheep with barking dogs forwarding unacceptable disturbance, stress, and anxiety to the sheep. A number of literature sources have been supplied by objectors regarding 'sheep worrying', which notes that the dogs do not have to be in the same field as the sheep themselves for sheep worrying to occur.
- 10.14 Whilst the applicant has worked with the Local Planning Authority and the consultee recommendations in order to mitigate the level of disturbance to the breeding ewes and grazing sheep by way of additional tree planting along the north and south-eastern boundaries and an updated Site Management Plan and site plan following recommendations from the Environmental Health Officer, on balance, it is not considered that any level of mitigation in this instance could eliminate the issues which will likely arise regarding sheep worrying and noise disturbance. In that regard, the proposal would fail to satisfy criteria D (iv) of Local Plan Policy HP7.
- 10.15 The proposal is for a business located in the countryside, outside of development limits and therefore relates directly to Local Plan Policy EC3.
- 10.16 Local Plan Policy EC3 states that new employment development will be permitted in open countryside where all the following criteria are met:

A. It involves either:

- i. the re-use or adaptation of an existing building, a proposal for farm or other land-based business diversification, or other small-scale proposal requiring a countryside location for operational reasons; or*
- ii. small-scale new building which is well related to a rural settlement, benefits the local economy, and reduces the need for increased car commuting to urban centers.*

B. The local road network can accommodate proposed traffic movements;

C. It would not have a significant adverse effect on the character, appearance or general amenity of the area. Outside defined settlement development limits the re-use of existing buildings to employment use from other uses will be supported where:

D. The building is of permanent and substantial construction, structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction.

E. The scale, form and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials.

F. The proposed alterations are of a high quality design, retaining the features that contribute positively to the character of the building and its surroundings.

G. 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.

H. It can be demonstrated that there is no unacceptable adverse impact on local biodiversity, including protected habitats and species.

I. The proposed use would not harm the countryside by way of traffic, parking, storage, light and noise pollution, or the erection of associated structures.

- 10.17 The proposal relates to the change of use of an existing parcel of land which was previously used for agricultural purposes to graze sheep. The proposal seeks permission for a change of use of the site to create a dog walking field. The proposal therefore relates directly to point (i) of criteria A of Policy EC3.
- 10.18 The proposal seeks to utilise the existing access point onto Railer Bank and create hardstanding in the form of gravel with no excavation or engineering work required. The hardstanding will provide parking provision for up to 3 vehicles. The planning statement submitted in support of the planning application details that the field can be used for up to 12 dogs with a maximum ratio of 6 dogs to 1 person. Upon consultation with the Local Highway Authority, as noted above, the Local Highway Authority have no objections to the proposal and have recommended conditions to ensure that highway safety is maintained. Therein, subject to compliance with the recommended conditions, the proposal will satisfy criteria B of Policy EC3.
- 10.19 The proposed site will see the creation of hardstanding covering an approximate area of 19 metres by 17 metres, alongside the erection of 2.2 metre fencing to

the perimeter of the site comprising of timber posts with wire mesh to allow for the growth of the surrounding vegetation. The proposed fencing will mostly sit behind existing established vegetation, however, there are some exposed sections to the north-western perimeter of the site, adjacent the public highway (Railer Bank), and along the southeastern boundary of the site which abuts a public right of way. Both exposed sections will be visible from public vantage points. The Joint Advisory Committee have advised that a proposed fencing specification should be submitted to the local planning authority prior to any work on site so that the authority can ensure fencing materials and the proposed method of construction are compatible with the deeply rural setting of the site. Further fencing specification details were provided and the JAC re-consulted, it was noted that the fencing specification details provided were considered appropriate in this rural setting. Whilst there will be some exposed sections surrounding the perimeter of the site where the proposed fencing will be visible, this is limited. It is also noted that the proposed fence line to the south-eastern boundary has been pulled back and will no longer directly abut the public right of way, which runs alongside the southeastern boundary of the site. It is not considered that the level of exposed fencing will have a detrimental impact on the character or appearance of the area or surrounding landscape.

- 10.20 The majority of the proposed hardstanding will remain mostly unseen from the public vantage points along Railer Bank given the established vegetation and hedging it will sit behind. No excavation or engineering works are required. Sample details of the proposed hardcore have been provided and is considered acceptable in this rural setting. Thus, it is not considered that the proposed hardstanding will detrimentally impact the character or appearance of the area or surrounding landscape.
- 10.21 It is therefore considered that the proposal satisfies criteria C, F and G of Policy EC3.
- 10.22 No buildings are proposed and therefore criteria D and E of Policy EC3 are not relevant in this case.
- 10.23 The application site is located adjacent the Hackfall Woods, which is a Site of Special Scientific Interest (SSSI) and is also situated nearby a nature reserve, which lies beyond High Bank to the north-west of the site. The site itself incorporates 7 mature trees within the site with the perimeter of the site also comprising of established vegetation and hedging. The application site also lies within the AONB. The Council's Principal Ecologist was consulted on this application and it was advised that the proposed car parking area be re-positioned further south away from the canopy and roots of the large veteran Beech Tree on site and the fence line to the south eastern boundary be pulled back to preserve the wildlife beyond. It is noted that concerns have been raised by local residents regarding the impact the proposal would have on local ecology and biodiversity. The Council's Principal Ecologist has assessed the application

and is of the view that the disturbance to wildlife which would be caused by a controlled number of dogs will be generally limited to the immediate location and the times when the dogs are present. The Principal Ecologist is of the view that the proposed use of the area as a dog-exercise area is unlikely to have a significance adverse impact on local wildlife, given the safeguards. It is therefore not considered that the proposal would harm local biodiversity nor harm protected habitats or species). The proposal is therefore considered to satisfy criteria H of Policy EC3.

- 10.24 As mentioned above, the proposal would not harm the countryside by way of traffic or parking. No lighting, storage or associated structures are proposed under this application.
- 10.25 The nature of the proposal to provide an enclosed dog park would likely see an increase in the level of noise in this part of the local area. As noted above, the surrounding fields are pastureland with the neighbouring field to the north occupying breeding ewes and the neighbouring field to the east / south-east often occupying grazing sheep. A number of representations have been received strongly objecting to the proposal regarding the impact the proposal will have on the sheep in the neighbouring fields. An objection has also been received by the National Sheep Association (NSA) concerning the negative impact the proposal will have on the physical and mental well-being of the sheep with barking dogs forwarding unacceptable disturbance, stress, and anxiety to the sheep. A number of literature sources have been supplied by objectors regarding 'sheep worrying', which notes that the dogs do not have to be in the same field as the sheep themselves for sheep worrying to occur.
- 10.26 Whilst the applicant has worked with the Local Planning Authority and the consultee recommendations in order to mitigate the level of disturbance to the breeding ewes and grazing sheep by way of additional tree planting along the north and south eastern boundaries and an updated Site Management Plan and site plan following recommendations from the Environmental Health Officer, on balance, it is not considered that any level of mitigation in this instance could eliminate the issues which will likely arise surrounding sheep worrying and noise disturbance. In that regard, the proposal would fail to satisfy criteria I of Local Plan Policy EC3.
- 10.27 Given the above assessment, it is considered that the proposal would fail to satisfy criteria D of Policy HP7 and criteria I of Policy EC3 of the Local Plan. The proposal would therefore also fail to satisfy the requirements of Policy GS3.

Impact on character and appearance/landscape character/AONB

- 10.28 National and local planning policies seek to encourage good design and to ensure that new development respects local distinctiveness

- 10.29 NPPF paragraph 131 states: The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.30 Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes.
- 10.31 Local Plan Policy HP3 (Local Distinctiveness) requires development to incorporate high quality building, urban and landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments.
- 10.32 Policy NE4 states proposals that will protect, enhance or restore the landscape character of Harrogate district for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the district will be supported. Development proposals must protect and / or enhance the character, appearance and local distinctiveness of the landscape, including the natural and man-made heritage features.
- 10.33 The proposed site will see the creation of hardstanding covering an approximate area of 19 metres by 17 metres, alongside the erection of 2.2 metres high fencing to the perimeter of the site comprising of timber posts with wire mesh to allow for the growth of the surrounding vegetation. The proposed fencing will mostly sit behind existing established vegetation, however, there are some exposed sections to the north-western perimeter of the site, adjacent the public highway (Railer Bank), and along the south-eastern boundary of the site which abuts a public right of way. Both exposed sections will be visible from public vantage points. The Joint Advisory Committee have advised that a proposed fencing specification should be submitted to the local planning authority prior to any work on site so that the authority can ensure fencing materials and the proposed method of construction are compatible with the deeply rural setting of the site. Further fencing specification details were provided and the JAC re-consulted, it was noted that the fencing specification details provided were considered appropriate in this rural setting. Whilst there will be some exposed sections surrounding the perimeter of the site where the proposed fencing will be visible, this is limited. It is also noted that the proposed fence line to the southeastern boundary has been pulled back and will no longer directly abut the public right of way which runs alongside the south-eastern boundary of the site. It is not considered that the level of exposed fencing will have a detrimental impact on the character or appearance of the area or surrounding landscape.
- 10.34 The majority of the proposed hardstanding will remain mostly unseen from the public vantage points along Railer Bank given the established vegetation and

hedging it will sit behind. No excavation or engineering works are required. Sample details of the proposed hardcore have been provided and is considered acceptable in this rural setting. Thus, it is not considered that the proposed hardstanding will detrimentally impact the character or appearance of the area or surrounding landscape.

- 10.35 The proposal will ultimately increase the intensification of the site, however, will remain mostly visibly as per the existing. No additional structures or lighting is proposed.
- 10.36 The proposal is therefore considered to comply with Local Plan Policy HP3 and NE4.
- 10.37 Local Plan Policy GS6 states that proposals will only be supported where they:
- A. Do not detract from the natural beauty and special qualities of the AONB and its setting;*
 - B. Contribute to the delivery of the Nidderdale AONB Management Plan objectives;*
 - C. Support the economic, social and environmental well-being of the area or support the understanding and enjoyment of the area.*
- 10.38 Following from the assessment above, in terms of the visual impact of the proposal, it is not considered that the proposal would result in an adverse impact on the character or appearance of the AONB or its setting and would therefore satisfy criteria A of Policy GS6.
- 10.39 As noted in the assessment of the principle of development above and consideration of the proposal against Local Plan Policies HP7 and EC3, it was noted that whilst the applicant has worked with the Local Planning Authority and the proposed recommendations forwarded by the Environmental Health Officer, on balance, it is not considered that any level of mitigation in this instance could eliminate the issues which will likely arise surrounding sheep worrying and noise disturbance. The presence of sheep in the neighbouring fields would likely cause an increased level of barking from the dogs using the field which would subsequently result in negative impacts on the health and well-being of the sheep which would have negative implications for the neighbours agricultural business and therefore rural economy. The proposal would therefore be of detriment to the economic, social and environmental well-being of the area and would thus fail to satisfy criteria C of policy GS6.
- 10.40 Aim (L2) of the Nidderdale AONB Management Plan seeks to maintain and enhance the AONB's natural beauty with objective 4 of the aim seeking to safeguard the tranquility of the AONB. Given the above assessment with the resultant dog barking in connection with the sheep in the neighbouring fields, it is

considered that the tranquility of the AONB could not be safeguarded in this regard. As noted above, whilst the applicant has followed recommendations of the Council's Environmental Health Officer in order to mitigate the level of disturbance, it is not considered that any level of mitigation in this instance would eliminate the concern regarding sheep worrying and the noise disturbance. As such, the proposal would not satisfy objective 4 of aim L2 outlined in the Nidderdale AONB Management Plan and accordingly fail to satisfy criteria B of Policy GS6.

- 10.41 As such, the proposal would be contrary to the requirements of Local Plan Policy GS6 and would not safeguard the special qualities of the AONB.

Residential Amenity

- 10.42 The NPPF advises, in paragraph 135, that decisions should ensure developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 10.43 Local Plan policy HP4 states that proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours. Amenity considerations listed in Policy HP4 include overlooking and loss of privacy, overbearing and loss of light and vibration, noise and other disturbance.
- 10.44 There are two nearby residential properties, Judy House, located approximately 27 metres to the west of the application site, and High Bank, located approximately 93 metres to the north-east of the application site. The proposed hardstanding and access is located approximately 30 metres south of the entrance to Judy House and will sit behind existing established vegetation along the western boundary of the site. The proposed access to the site does not directly face onto the neighbouring property (Judy House) and is of a sufficient distance away to not give rise to neighbouring amenity issues with regards to an overlooking impact.
- 10.45 The use of the site as a dog walking facility will, however, likely result in an increased level of noise from barking dogs using the site which will likely be exacerbated by the presence of sheep in the neighbouring fields. The majority of the western boundary is screened by established vegetation with the main dog field located further south of the proposed hardstanding and access. The vegetation along the west and northern boundaries will provide a level of noise mitigation for the neighbouring properties at Judy House, located approximately 27 metres from the site, and High Bank, located approximately 93 metres from the site. However, following assessment of the proposal with regards to the impact of the proposal on noise disturbance, given the siting of the application site directly neighbouring agricultural fields which occupy breeding ewes and

grazing sheep, this will likely increase the level of barking and subsequently the level of noise pollution particularly for the closest neighbouring property, Judy House.

- 10.46 The Council's Environmental Health department were also consulted regarding noise impact on neighbouring properties and it was advised that all the control measures (controlled hours, controlled numbers, security on who can go on site, management of the site through regular visits, a detailed booking scheme so the manager know who is on at what time etc.) are to be included in a site management plan which could be subsequently conditioned to control the level of disturbance. It was also advised that a complaint system is set up with a notice in the car park of who complaints can be made to. If there is excessive noise from barking the manager can identify who was on at the time the barking is alleged, giving the manager an opportunity to investigate and ban certain dogs if necessary. This gives residents an element of control if there are justifiable complaints. It is noted that the applicant provided an updated site management plan following the recommendations forwarded by the Council's Environmental Health department.
- 10.47 Criteria C of Local Plan Policy HP4 makes regard to the safeguarding of amenity with regards to noise disturbance. Whilst the applicant has worked with the Local Planning Authority and followed consultee recommendations in order to mitigate the level of disturbance to the breeding ewes and grazing sheep by way of additional tree planting along the north and south-eastern boundaries and an updated Site Management Plan and site plan, on balance, it is not considered that any level of mitigation in this instance could eliminate the issues which will likely arise surrounding sheep worrying and noise disturbance.
- 10.48 The proposal would fail to safeguard neighbouring amenity and would therefore be contrary to the requirements of Local Plan Policy HP4.

Highway safety and parking provision

- 10.49 Paragraph 115 of the NPPF 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'.
- 10.50 Local Plan Policy TI3 seeks to approve development to include sufficient provision of vehicle and bicycle parking.
- 10.51 The proposal seeks to utilise the existing access point onto Railer Bank and create hardstanding in the form of gravel with no excavation or engineering work required. The hardstanding will provide parking provision for up to 3 vehicles. The planning statement submitted in support of the planning application details that the field can be used for up to 12 dogs with a maximum ratio of 6 dogs to 1 person. Upon consultation with the Local Highway Authority, as noted above, the

Local Highway Authority have no objections to the proposal and have recommended conditions to ensure that highway safety is maintained.

- 10.52 Therein, the proposal therefore and subject to conditions requiring the maintenance of the parking area, adequately safeguards highways safety. This accords with paragraph 115 of the NPPF and policies TI1 and TI3 of the Local Plan.

Impact on enjoyment of public right of way

- 10.53 Paragraph 104 of the NPPF seeks to ensure that planning policies and decisions protect and enhance public right of ways.
- 10.54 Local Plan Policy HP5 details that the area's network of public rights of way, together with permissive routes, provide an important recreational resource that enables the public to experience and enjoy the district's high quality natural, built and historic environments through activities such as walking, cycling and horse riding. As such, these routes play an important role in ensuring the physical and mental health and wellbeing of the district's residents, as well as contributing to what the area has to offer to visitors.
- 10.55 This policy aims to protect public rights of way so that the routes and their existing recreational and amenity value is not undermined by new development.
- 10.56 The site lies adjacent the Hackfall Woods (a Site of Special Scientific Interest) to the west, which provides a public right of way (15.7/35/1) through the adjacent neighbouring property (Judy House) with the public right of way continuing from the south-western edge of the application site. The public right of way follows the south-western boundary of the site for approximately 100 metres before it trails off in an easterly direction.
- 10.57 Following consultation with the Council's Principal Ecologist, the proposed fencing to the south-eastern boundary which lies adjacent with the public right of way, has been since re-positioned further west, approximately 8.5 metres away from the public right of way. As such, it is not considered that the proposed 2.2 metre fencing will now detract from the enjoyment of the public right of way and is therefore considered to accord with Local Plan Policy HP5.

Ecology

- 10.58 Paragraph 186 of the National Planning Policy Framework states that when determining planning applications, local planning authorities should apply several principles. One of these states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 10.59 Policy NE3 relates to protecting the natural environment.

- 10.60 The application site is located adjacent the Hackfall Woods which is a Site of Special Scientific Interest (SSSI) and is also situated nearby a nature reserve which lies beyond High Bank to the north-west of the site. The site itself incorporates 7 mature trees within the site with the perimeter of the site also comprising of established vegetation and hedging. The application site also lies within the AONB. The Council's Principal Ecologist was consulted on this application and it was advised that the proposed car parking area be re-positioned further south away from the canopy and roots of the large veteran Beech Tree on site and the fence line to the south eastern boundary be pulled back to preserve the wildlife beyond. It is noted that concerns have been raised by local residents regarding the impact the proposal would have on local ecology and biodiversity, and the sheep and ewes on the neighbouring fields. The Council's Principal Ecologist has assessed the application and is of the view that the disturbance to wildlife which would be caused by a controlled number of dogs will be generally limited to the immediate location and the times when the dogs are present. The Principal Ecologist is of the view that the proposed use of the area as a dog-exercise area is unlikely to have a significance adverse impact on local wildlife, given the safeguards. It is therefore not considered that the proposal would harm local biodiversity nor harm protected habitats or species).
- 10.61 Following amendments made to the proposed site plan to site the proposed car parking area further south away from the roots and canopy of the large Beech Tree and the re-positioning of the fence line along the south-eastern boundary, no further objections were raised and the proposal is considered to accord with Local Plan Policy NE3 and Paragraph 186 of the NPPF.

Drainage

- 10.62 Policy CC1 of the Local Plan states development proposals will not be permitted where they would have an adverse effect on watercourses or increase the risk of flooding elsewhere.
- 10.63 The proposal does not incorporate any facilities on site which requires the discharge or drainage of water.
- 10.64 The proposed hardstanding seeks to incorporate a permeable material and will therefore not give rise to an increased risk of flooding to the site or surrounding area.
- 10.65 Comments raised by objectors raised concern regarding dog faeces and this contaminating water via its entry into surface water run-off and into the springs and across the fields to the north.
- 10.66 The Planning Statement submitted in support of the planning application has stated that a dog waste bin will be provided for users of the field near the car park area, and this will be emptied daily by the applicant. The waste will be double bagged and then collected by a licenced waste contractor. The site will also be inspected at regular intervals to ensure the site remains clean and clear.

It is not considered that faecal matter will accumulate on site. In order to ensure the site is maintained and up kept, this can be conditioned.

10.67 The proposal is therefore considered to accord with Local Plan Policy CC1.

Land use

10.68 Policy NE8 seeks to protect 'The best and most versatile agricultural land (grades 1, 2 and 3a)' from development not associated with agriculture or forestry except where it can be demonstrated to be necessary.

10.69 The proposal site is located on agricultural land classified as grade 3 'good to moderate' according to the Agricultural Land Grading maps.

10.70 Whilst the proposed change of use of the land in question will cease the use of agricultural activities, the Planning Statement submitted in support of the planning application states that sheep will be allowed to graze the field at agreed times when not in use.

10.71 The proposal will result in an intensification of the use of the site; however, the land is not considered to be of high grading and is therefore not viewed inappropriate in this instance and will therefore accord with Local Plan Policy NE8.

11.0 PLANNING BALANCE AND CONCLUSION

11.1 This application has presented a number of issues which are various, complex and sensitive. On balance, whilst the applicant has worked with the Local Planning Authority and the consultee recommendations in order to mitigate the level of disturbance to the breeding ewes and grazing sheep in the neighbouring fields, it is not considered that any level of mitigation in this instance could eliminate the issues which will likely arise surrounding sheep worrying and noise disturbance. The proposal would also fail to safeguard the tranquility of the AONB.

11.2 The proposal would therefore be contrary to the requirements of Local Plan Policies GS3, HP7 (criteria D, iv), EC3 (criteria I) HP4 and GS6.

12.0 RECOMMENDATION

12.1 That planning permission be REFUSED.

1. The proposal would result in negative implications with regards to the issue of sheep worrying to the breeding ewes and grazing sheep in the neighbouring

fields. The proposal would also give rise to an unacceptable level of noise disturbance to nearby residents. The proposal would fail to safeguard the special qualities of the Nidderdale Area of Outstanding Natural Beauty and is therefore considered to be contrary to the requirements of Local Plan Policies GS3, HP7 (criteria D, iv), EC3 (criteria I) HP4 and GS6.

Target Determination Date: 3rd January 2024.

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