

North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

21 MARCH 2024

ZE23/06398/FUL - CHANGE OF USE OF AGRICULTURAL LAND TO 12NO. ALLOTMENTS AND COMMUNAL GARDENS WITH ASSOCIATED PARKING, GATED INTERNAL ACCESS TRACK, PAVILION, 13NO. GREENHOUSES/POLYTUNNELS, 13NO. SHEDS AND 3NO. STORAGE CONTAINERS AT BOUNDALES FARM, BACK LANE, LEAVENING

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a planning application for the change of use of agricultural land to a community space including allotments with associated paraphernalia on land at Boundales Farm, Back Lane, Leavening.
- 1.2 The application is reported to the Area Planning Committee for determination because the land subject of the application is under Council ownership and therefore, in line with the scheme of delegation, the application is considered to be submitted on behalf of the Council.

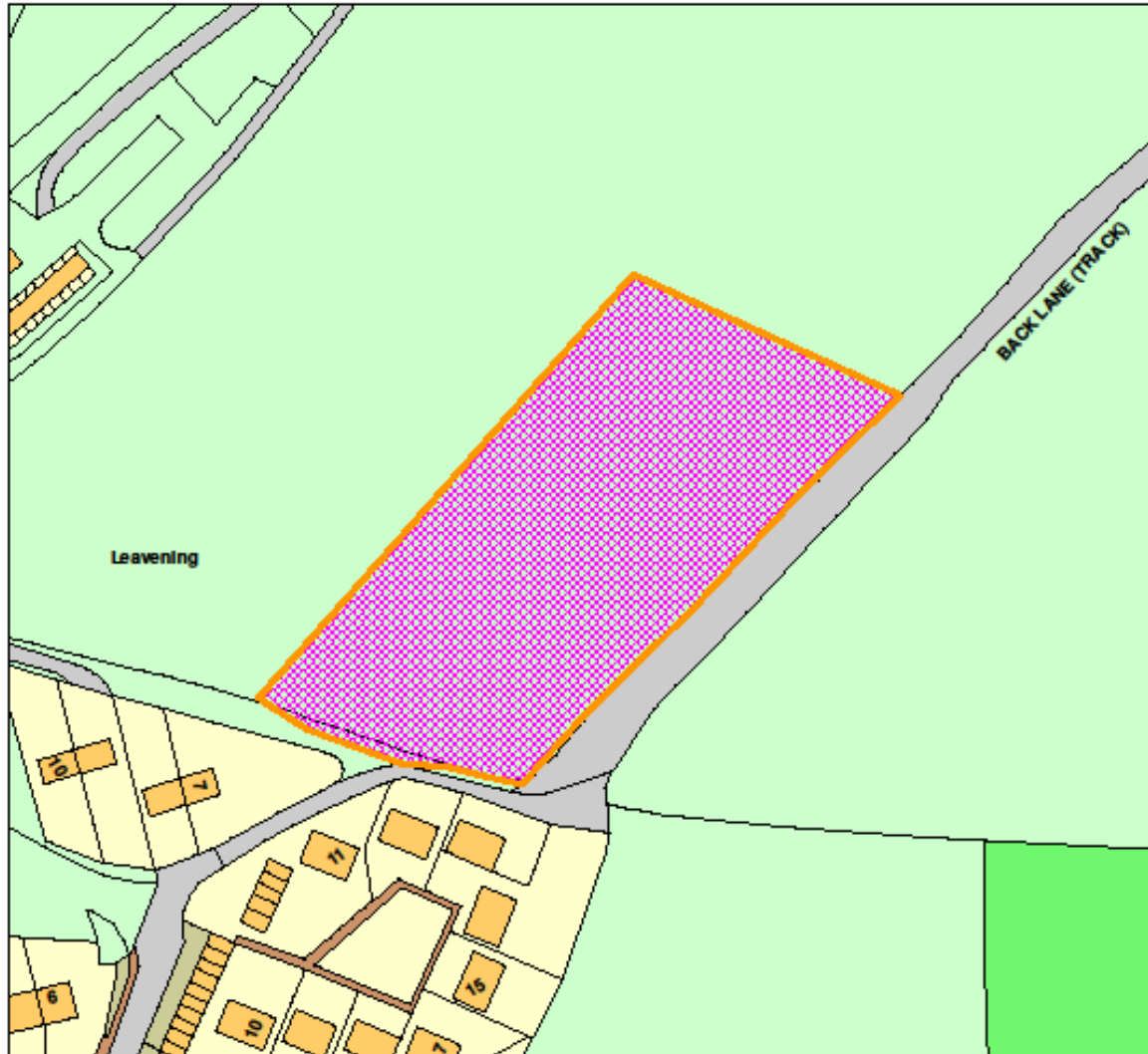
2.0 EXECUTIVE SUMMARY

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

- 2.1. The proposed development comprises the change of use of an area of agricultural land to a community space used principally for allotments. The proposal includes spaces for congregation and play, including a timber-framed 'pavillion' structure which has the capacity for intermittent and small-scale community events. Additional proposed development includes the siting of small structures to serve individual allotments, as well as a large polytunnel and 3no. storage containers to serve the whole site. A new access into the field is proposed via an existing track off Preston Hill with permeable surfacing laid to provide parking spaces.
- 2.2. The majority of the application site is located outside the development limits of Leavening and is covered entirely by the Wolds Area of High Landscape Value (AHLV) designation. It is situated within the south-east corner of the wider holding of Boundales Farm, Back Lane, Leavening.
- 2.3. Boundales Farm, including the agricultural land subject of this application, is owned by North Yorkshire Council. As the Council is not the applicant, the appropriate notice has been served on it and the ownership situation has been properly identified in the application form.

- 2.4. Officers from NYC Property Services have confirmed that the land has been in Council ownership for a very significant period of time. In recent decades, the farm has been let as a smallholding, with the current tenancy having commenced in the early 1990s. Terms for the transfer of land have been agreed between the Council and the applicants and it is expected that a transaction will be completed in the event of planning permission being granted.
- 2.5. Though not directly relating to the land subject of this application, the Council has an additional interest in the proposal due to having made a financial contribution towards the delivery of allotments in Leavening. This amounts to a total of £36,818.74, comprising: a Section 106 grant (£30,000, with £15,000 withheld until project completion), a Community Grant (£5818.74) and a Stronger Communities Grant (£1000).
- 2.6. The development of an allotments facility with additional facilities is considered to be a community facility, and it is being sought within the Wider Open Countryside. On that basis, Policy SP1 and Policy SP11 of the Ryedale Plan – Local Plan Strategy (2013) are the key relevant policies. Policy SP1 (General Location of Development and Settlement Hierarchy) identifies that for development outside of Development Limits and within the Open Countryside, development will be “restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities”. Policy SP11 supports the provision of new community facilities outside development limits in Other Villages in principle where the facility is needed to serve the local area, and cannot be provided within development limits. Leavening does not have a comparable facility. In attempting to source a suitable site for the proposal, the applicants conducted rigorous assessments of numerous sites in the vicinity of the village, but there was no availability within development limits. The proposed change of use is therefore considered to be acceptable in principle.
- 2.7. The main issues emerging throughout the course of the application were: the impact on the highway / access suitability; landscape impact; amenity impact and the consideration of surface water flood risk. These have been addressed to the satisfaction of officers and statutory consultees.

ZE23/06398/FUL

**Scale:** 1:1,250

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Organisation	North Yorkshire Council
Department	Development Management
Comments	
Date	12/03/2024
MSA Number	Not Set

3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:-
<https://planningregister.ryedale.gov.uk/caonline-applications/simpleSearchResults.do?action=firstPage>

3.2. There is no planning history associated with the site.

4.0 Site and Surroundings

4.1. Leavening is classed as an Other Village in the settlement hierarchy of the Ryedale Plan and its key services include a primary school. Other facilities within the village include a church, a small play area connected to the school, a sports pitch and a pub.

4.2. The majority of the application site is comprised of a broadly rectangular-shaped piece of arable agricultural land (henceforth referred to as 'the field'). It is situated at the very south-east corner of the Boundales Farm smallholding, bound by mixed-density hedging, small trees and post-and-wire fencing, with open fields to the north and west. The total site area, including both the agricultural land and access track, is approximately 0.59ha.

4.3. Although the field subject of the proposal is currently accessed off Back Lane and through Boundales Farm itself, this established route is not identified as the means of accessing the main site area as it is not available into the future. As an alternative, and included within the red line, is a private lane which currently serves a small number of nearby residential properties and neighbouring fields. It is proposed that this lane will connect the field to the public highway on Preston Hill via a new opening on the southern boundary of the field.

4.4. As explained in the Executive Summary, the applicant does not own any part of the application site. While the field falls under the ownership of North Yorkshire Council, the ownership of the proposed access track is presently unknown. The applicants carried out the proper procedures to notify the community in order to identify an owner, whilst also undertaking extensive research of public records. While rights of access over the lane has been established (relating to certain nearby residential properties), an outright owner has not been identified. It is therefore considered that the owner is either unknown or there is no owner.

4.5. The field subject of the main proposal is located outside but adjoining the Leavening development limits and is covered entirely by the Wolds AHLV designation. The access track is within development limits. The site is in an elevated position to the north/north-east of the village and is situated on gradually rising land. Due to these characteristics and the topography of the wider area, the site is visible from public vantage points within the village, particularly from within residential areas which are due south of the application site (i.e. The Rise).

4.6. Adjoining the site to the north, west and east is agricultural land, some of which falls under the Boundales Farm smallholding. To the south is the built-up area of Leavening, with properties on Wold View and Preston Hill in close proximity. The

proposed access track goes between the domestic curtilages of 7 Preston Hill and 11 Wold View.

5.0 Description of Proposal

- 5.1. This application seeks Full Planning Permission for the change of use of an area of agricultural land to a community space used principally for allotments. The proposal includes spaces for congregation and play, including a timber-framed structure which has the capacity for intermittent and small-scale community events. Additional proposed development includes the siting of small structures to serve individual allotments, as well as a large polytunnel and 3no. storage containers to serve the whole site. A new access into the field is proposed via an existing track off Preston Hill with permeable surfacing laid to provide parking spaces.
- 5.2. The application is accompanied by a significant amount of information relating to the proposal, the site and the applicants themselves, including:
- Site location and layout plans
 - Plans and details for the following items: pavilion, containers, communal polytunnel, sheds, greenhouses, boundary treatments, access and signage arrangements, surfacing materials
 - Details relating to anticipated use of communal spaces
 - Flood risk assessment and surface water management plan
 - Records of ownership and other legal materials relating to the access track
 - Badger survey and report
 - Applicants' governance and management information
 - Details of community support and site identification work
- 5.3. The stated aims of the applicants are to provide allotments, school growing space, storage for village equipment, a communal garden space, a communal meeting hub and a wildlife area. The tangible goals being: to provide community space for the enjoyment of residents, including access to growing areas, a protected space for small-to-mid-sized gatherings, as well as providing a means to increase biodiversity and improve the village's economy. The intangible goals being: to improve the mental and physical well-being of residents, to increase community engagement and to improve access to wildlife and the environment.
- 5.4. The prospect of creating a new community space for the village was established at meetings of the Leavening Parish Council in 2022, with discussions and community surveys undertaken thereafter to achieve certainty about the amount of local interest. A volunteer group was formed and later formally constituted as a registered charity known as 'Leavening Allotments and Gardens'. With the support of the Parish Council, this group represent the applicants associated with the proposal.
- 5.5. The proposed pavilion (referred to within some application materials as 'potting shed') would be constructed of timber boarding under dark-coloured steel roof sheeting, with a footprint of c32 sq. metres, measuring c7 metres by c4.6 metres. The height to the ridge and eaves would be 3.5 metres and 2.4 metres respectively, with a roof pitch of 15 inches.

- 5.6. The three proposed cuboid containers would be constructed of metal and painted in dark grey. The proposal intends to soften the appearance of the containers by horizontally cladding them with tanned wooden battens. Additionally, the non-opening 'end' of each container would be clad with a 'bug hotel', while the tops will support a green roof. They would each have a footprint of c15 sq. metres, measuring c6 metres by 2.5 metres, with a height of c2.5 metres.
- 5.7. Each allotment is proposed to feature both a small shed and either a small greenhouse or polytunnel, with some flexibility allowed to accommodate the choices of future allotment holders. The sheds would be constructed of timber and measure c2.4 metres by c1.9 metres, with a ridge height of c2.4 metres. The greenhouses or polytunnels would be constructed of polycarbonate sheeting to reduce glint and glare and would not exceed a footprint of c5 metres.
- 5.8. An additional polytunnel is proposed for communal purposes and is not related to any of the 12 individual allotments. This would also be constructed of polycarbonate sheeting and measure c6 metres by c2.5 metres, with a ridge height of c2.2 metres.
- 5.9. The proposed layout features an internal access track around its perimeter to enable maintenance of hedges and fencing from within the site itself. Within the area bound by the internal access, the layout is effectively split in half: the western side featuring the pavilion, communal polytunnel, containers and a network of spaces for growing and for play; the eastern side featuring the 12 individual allotments as well as five car parking spaces.
- 5.10. The proposal seeks to establish a well-defined boundary to provide a clear separation between the application site and the rest of the field in which it sits. This will be achieved by the addition of new hedges to the west and north boundaries, as well as the addition of 1100mm-high wire mesh fencing. The proposal also seeks to reinstate hedging to the southern boundary and will erect a 6-foot high close-boarded fence as an interim measure to protect the amenity of neighbouring residential properties to the south.
- 5.11. New openings into the field are proposed at the southern boundary: a vehicular access to connect with the existing private lane which leads onto Preston Hill; and a pedestrian access to connect to Back Lane. The two openings are proposed to be gated by appropriately-sized and lockable galvanised gates.

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 Ryedale Plan – Local Plan Strategy (2013)

Policy SP1 – General Location of Development and Settlement Hierarchy

Policy SP9 – The Land Based and Rural Economy

Policy SP11 – Community Facilities and Services

Policy SP13 – Landscapes

Policy SP14 – Biodiversity

Policy SP15 – Green Infrastructure Networks

Policy SP16 – Design

Policy SP17 – Managing Air Quality, Land and Water Resources

Policy SP19 – Presumption in Favour of Sustainable Development

Policy SP20 – Generic Development Management Issues

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 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

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Parish Council:** The Parish Council supports the proposal and has endorsed the volunteer group that have made the application. The Council acknowledges that objections have been made by residents proximal to the site but considers that appropriate measures will be included to address concerns. They consider that the project would provide a wider public benefit for the village and local area.
- 7.3. **North Yorkshire Council Highways:** Highways engineers recommend that certain conditions be attached to a grant of planning permission, specifically referring to access, parking, manoeuvring and turning areas. This followed an initial response which recommended that the application be refused due to the insufficient width of the access track. The applicants made amendments to the proposal which sought to mitigate the issue and Highways colleagues revised their recommendation.
- 7.4. **Lead Local Flood Authority:** The application does not meet the threshold which requires the LLFA to make a statutory response; however, advice was offered to planning officers. This amounted to ensuring that no impermeable areas be added to the land to ensure that the risk of surface water run off was not increased, and to

ensure that a suitable drainage system be incorporated to take account of any additional run-off.

- 7.5. **North Yorkshire Council Environmental Health:** After seeking more information from the applicants, Technical Officers consider that the scale and nature of potential events at the site were appropriate and have no concerns regarding noise. They have no objections to the proposal.
- 7.6. **North Yorkshire Council Ecology:** The Council Ecologist has reviewed the submitted badger survey and report and is satisfied that the proposal is unlikely to have an impact on the viability of the local badger population.
- 7.7. **Designing Out Crime Officer:** No concerns to raise.

Local Representations

- 7.8. 48 local representations have been received of which 33 are in support and 12 are objecting. A summary of the comments is provided below, however, please see website for full comments.
- 7.9. Support:
- In support providing that any objections are considered
 - Rural communities have limited access to activity and communal areas
 - The proposal will improve physical and mental well-being/welfare
 - The proposal will provide an educational tool for the school
 - The site is in a good location distanced from public roads
 - The site will provide views of the countryside and other settlements
 - Houses only have small gardens and people have limited access to grow food
 - The proposal will help to provide food locally
 - There are sustainability benefits as any food transported to the site would travel very few miles
 - Will provide a place for social interaction and community development
 - The proposal will enable people to share ideas and skills
 - There are a lack of meeting places within the village
 - The site is easily accessible and has easy pedestrian/wheelchair access
 - The proposal will enable a walking loop from Back Lane to Preston Hill
 - It is important to reserve green spaces as the village expands
 - The site will become more attractive to wildlife and biodiversity
 - The village has a shortage of children's play spaces
 - There are very few green spaces within the village
 - There is an unmet demand for allotments within the village
 - The scheme contains sufficient landscaping and there will be minimal impact on neighbours
 - There are sufficient parking spaces within the site
 - The proposal would make good use of Section 106 funding
 - There is no alternative land more suitable for allotments
 - The impact on adjoining residents has been taken into account
 - The proposal will act as a buffer to any new development in the village

7.10. Objections:

- The access track which connects the field to Preston Hill is unavailable to use
- The access track is unsuitable because it is unsafe and too narrow for pedestrians to avoid vehicles
- There are existing traffic and on-street parking issues on Preston Hill which will increase
- There is insufficient parking within the site itself/no contingency for overflow parking
- The use of the access track would impede access for neighbours
- The formation of the new opening into the field will lead to the removal of existing landscaping
- The formation of the new opening into the field will lead to the loss of a storm drain
- The proposal will lead to overlooking into nearby residential properties
- The proposal will lead to unacceptable levels of noise
- There are existing allotments already within the village which are not being used
- Work has already started on site, including the access track being laid with new stone and water infrastructure being added on site
- Other locations would be more suitable for the proposal

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
- Access and highway safety
- Impact on residential amenity
- Surface water flood risk
- Impact on landscape

10.0 ASSESSMENT

Principle of Development

- 10.1. The application proposes the change of use of agricultural land to a community area comprising allotments and other communal spaces.
- 10.2. Policy SP1 (General Location of Development and Settlement Hierarchy) identifies that for development outside of Development Limits and within the Open Countryside, development will be “restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities”.

- 10.3. Policy SP9 (the Land-based and Rural Economy) of the Local Plan Strategy supports the diversification of land for local food production. As the allotments would enable this, the change of use of agricultural land for this purpose would be supported. The policy does not make specific reference to community spaces, however it does support 'appropriate farm and rural diversification activity including innovative approaches'. The land is Grade 4 in terms of its wider agricultural land classification (and therefore is not classified as best and most versatile), but is used for crop growing. It represents a small part of the site, and would provide local food growing opportunities.
- 10.4. Policy SP15 (Green Infrastructure Networks) states that a network of green open spaces and natural features will be created and managed to support biodiversity and environmental systems to enhance the attractiveness of places and to support healthy lifestyles by providing opportunities for activity and relaxation. The policy specifically identifies that creating new open spaces, play spaces and allotments is one such means of achieving the Plan's green infrastructure aspirations.
- 10.5. Policy SP11 (Community Facilities and Services) supports proposals for new facilities outside of development limits where they are needed to serve the local area and cannot be provided within development limits. The development of accessible community facilities – including meeting places and open spaces – is also supported by the NPPF (Pars. 8, 88 and 97). Additionally, the NPPF makes specific reference to the provision of allotments as a means to promote healthy and safe communities (Par 96).
- 10.6. Regarding the matter of need, Leavening does not currently have a meaningful community allotment space. One of the objections refers to the presence of existing allotments. The applicants provided details of an existing private allotment – a small site located off the end of Beck Lane – which cannot suitably deliver the communal aims inherent to the proposal. The village has a sports field and a small play area located near to the primary school but these are not places for the casual social interactions which would be enabled by this scheme.
- 10.7. Regarding the matter of location, the applicants have provided supporting materials which demonstrate the extent of their search for a suitable site which meets their aspirations for a high quality community facility. The search identified seven options, including the application site, all of which were outside development limits.
- 10.8. The applicant has explained that the field at Boundales Farm is the most acceptable of those surveyed because it has excellent soil, is south facing, is within easy walking distance of the entire village, has a potential access and is available. This was in comparison to other sites considered, each of which faced viability issues, including: land being too steep to cultivate; being closer to busier roads; having poor soil; having drainage issues; having steepness issues; and having accessibility issues.
- 10.9. It is clear that there is not a suitable site within development limits for such a proposal. Nevertheless, the application site is located very close to residential properties and is within reasonable walking distance for the remainder of the population of Leavening.

- 10.10. The provision of additional community spaces within the village has been a demonstrable aspiration of the village since Spring-time in 2022. The applicant has provided a timeline which documents the development of the project, initially commencing when the Parish Council engaged in a survey to explore ideas for the expenditure of Section 106 funding. A desire for allotments and communal garden spaces was established, with a total of 45 residents later outlining their intentions to be involved in the scheme in some way.
- 10.11. The principle of the project is something which is clearly endorsed by the community and indeed by the former local authorities (Ryedale District Council and North Yorkshire County Council), demonstrated by the issuing of grant funding to assist with delivery. The proposal is a form of development which would support a range of plan objectives in principle, and has been demonstrated to be necessary to be in that location, and meet the needs of the community in Leavening. It is also a compatible use given its rural location, and contributes to delivery of Green Infrastructure.
- 10.12. Therefore the proposed change of use is considered to be acceptable in principle and consistent with the policy principle objectives of Policies SP1, SP9, SP15 and SP11, subject to consideration of the site-specific impacts in relation to highways/access, impact upon residential amenity, impact on landscape, and surface water flood risk.

Access and Highway Safety and Accessibility

- 10.13. Policy SP20 (General Development Management Issues) requires that access to and movement within sites by vehicles, cycles and pedestrians should not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. In consultation with the Local Highway Authority, officers have sought amendments to the proposal to ensure compliance with this policy.
- 10.14. The field which is proposed to accommodate allotments and communal spaces is to be served by an existing private lane. This lane begins where the north-east end of Preston Hill terminates. The transition from public highway to private lane is therefore immediate.
- 10.15. The lane itself is unsophisticated, narrow and is initially situated between two residential properties. Its entrance is formed by the extent of those domestic curtilages, which also serve to align it in a north-easterly direction for approximately 35 metres. When the lane meets the southern boundary of the field, it bends eastwards to connect to the historic Back Lane. At this point, it flanks the boundary of the field and provides rear access to two properties on Wold View, as well as neighbouring agricultural land.
- 10.16. In order to provide vehicular access to the field from the lane, the proposal seeks to make a new opening on the southern field boundary. This would effectively create a junction, enabling the lane to continue in a broadly north-easterly direction into the field, at the same point at which it bends eastwards.
- 10.17. Objections have been received by neighbouring residents regarding this aspect of the proposal.

- 10.18. One objection was on the grounds that the applicant would not have permission to use the lane to serve the field in any event, thereby fundamentally preventing the scheme from being viable. Although land ownership and right of access is commonly only a civil matter, when there is an expectation of access to enable the use of a site, the matter becomes a material planning consideration. It must therefore be considered when assessing the full impacts of the proposal, with particular regard for whether or not the development can reasonably take place.
- 10.19. This matter was considered by officers in consultation with highways engineers, who expressed concerns that a sudden closure of the lane in future might directly cause congestion and parking issues on Preston Hill. In an effort to identify any owners, notice has been appropriately served on the local community and the applicant has conducted extensive research of numerous public records. These efforts have wrought no conclusive evidence of an owner and officers are therefore confident that an unforeseen closure of the lane (which is based upon a legal precedent) is very unlikely to occur.
- 10.20. Objections were also received on the basis of the suitability of the access in terms of highway safety. Residents from some nearby residential properties referred specifically to the lane being used by agricultural machinery and farm vehicles and the risks posed to pedestrians who might be using the lane to access the site. In addition to those objections, highways engineers also initially recommended that the scheme be refused due to concerns that vehicles travelling in opposing directions could lead to undesirable reversing movements onto Preston Hill.
- 10.21. To address concerns from residents and highways engineers alike, the applicants have amended the proposal to include mitigation measures.
- 10.22. Regarding the possibility of pedestrians sharing the lane with vehicles, officers acknowledge that footfall along the lane may increase if the proposal is implemented. However, this is not expected to be by a significant amount, meanwhile the use of the lane would not be fundamentally changing in any case. The lane is available to pedestrians now and therefore users might encounter vehicles (and vice versa) even without the implementation of the proposal.
- 10.23. In order to reduce instances of pedestrians sharing the lane with vehicles, the scheme includes a non-vehicular entrance to the site off Back Lane, therefore providing an alternative option for those accessing the site on foot. To safeguard pedestrians who still choose to use the lane off Preston Hill, an appropriately-positioned convex mirror has been proposed in order to aid the visibility of motorists joining the lane from the east.
- 10.24. In order to reduce instances of pedestrians sharing the lane with vehicles *and* to reduce the likelihood of vehicles meeting 'face-to-face', appropriately-positioned 'give way' signage has been proposed within the field. This would give priority to any vehicles arriving via Preston Hill, requiring any vehicles exiting the field to pause and remain within the site.

- 10.25. Highways engineers are satisfied that this package of measures will appropriately reduce risks to highway safety and therefore revised their initial recommendation of refusal. Conditions have been recommended.
- 10.26. Separately to matters relating to the lane; a further concern was raised about the scheme incorporating an insufficient number of parking spaces. However, this is not considered to be a major issue for the same reasons expressed above: there is a clear onus on accessing the site via active travel modes and it is not expected that the site will be required to accommodate a significant number of parked vehicles. Highways engineers did not consider this an issue and so the number of spaces proposed is therefore considered sufficient.
- 10.27. With due regard to Section 149 of the Equality Act 2010, it is noted that – due to the sloping nature of the land, particularly at the points of access into the field – access to the site is not especially conducive for persons whose mobility may be impaired. As demonstrated by the applicants' search for a suitable site, there isn't one in existence in the village which would be entirely without such constraints; that is to say, there is no available location within Leavening which is mostly flat. This is due to the physical geography of the settlement, which is situated within a valley, surrounded by sloping land.
- 10.28. The applicants have expressed their intentions to make the site as inclusive and as accessible as possible and have sought advice from specialist charities. There is an acceptance that accessing the field on foot may present challenges to persons who face mobility issues; as such, there are some whose only option may be to arrive in a vehicle. However, the proposal itself includes features which seek to enable people of all abilities to enjoy the use of the facility: the surfacing within the communal areas of the site would be conducive to wheelchair users, whilst many of the communal flower beds would be at different heights, with nearby seating. Tactile and other sensory gardening features are also included in the scheme. These aspects concerning the gardening features cannot be reasonably controlled by planning condition, however they demonstrate the applicant's consideration of equal opportunities.
- 10.29. In addition to the mitigation measures proposed, officers consider that due to the nature of the proposal and its accessibility via active travel modes, significant volumes of traffic are unlikely to be generated. The Local Highway Authority are now satisfied (subject to conditions). It is therefore considered the proposal can satisfy Policy SP20 regarding its impacts on traffic and pedestrians.

Impact on residential amenity

- 10.30. Policy SP20 (General Development Management Issues) of the Local Plan Strategy states that new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses.

- 10.31. The field part of the application site does not share a boundary with any residential properties, however it is proximal to dwellings on Preston Hill and Wold View. The private lane which is proposed to provide vehicular access is aligned by the domestic curtilages of 7 Preston Hill and 11 Wold View. Due to these neighbouring uses, the impact on residential amenity is a key consideration in the determining of this application. Officers – in consultation with Environmental Health colleagues – have sought to ensure that the proposal will not create a level of noise or disturbance that would be harmful to residential amenity.
- 10.32. Objections have been received from neighbouring residential properties regarding possible unacceptable levels of overlooking and noise from use of the communal spaces on site. Plausible day-to-day nuisances which might emanate from occupied allotments (without sufficient control) have also been considered by officers, though such matters have not been raised in any objections, and the allotment association have identified a management plan for controlling antisocial behaviour.
- 10.33. Regarding the matter of overlooking, residential properties on Wold View – closest to the southern boundary of the field – have greatest sensitivity. A site visit revealed that there are at least two houses on Wold View whose levels of privacy could be unreasonably impacted without sufficient mitigation. To address this, the applicants have provided details of both short-term and long-term measures to provide a suitable level of screening. The proposed interim measure is to install a 6-foot tall close-panelled timber fence along the southern boundary, allowing time for the re-planting of hedging to sufficiently mature and provide screening, thus preventing any unacceptable overlooking in perpetuity.
- 10.34. A resident from one property on Preston Hill, which abuts the proposed access, has also raised concerns about possible overlooking; however, officers consider that, in this case, there is less sensitivity. The access track is already used by the public to pass and repass. The property in question has an existing strong defensible boundary in the form of fencing and the house itself is at a greater distance from the site than the properties on Wold View. It is also noted that the communal activities related to the proposal are not situated at the southern aspect of the field; instead that area is a mostly transitional space where persons and vehicles enter, exit and park. As such, there is less scope for users of the site to linger in areas where they might be causing an unacceptable loss of privacy.
- 10.35. Regarding the matter of noise impact, it is considered that – although the proposal would lead to a greater amount of activity than what is existing – the most routine use of the site (i.e. people tending to allotments) would be low-key and not lead to an unacceptable level of noise. Indeed it is typical for community allotments and associated activities to be situated near to residential properties, as is the case here. Noise from vehicles accessing the site is also expected to be low, with daily comings and goings expected to be low in amount given the site's accessibility on foot. The speed at which vehicles will be travelling is also expected to be very low due to the nature of the access, thus creating less noise.
- 10.36. It is noted that the communal spaces proposed have more scope for impacting residential amenity by virtue of noise creation. In dialogue with Environmental Health

technical officers, the applicants have provided a schedule of planned events which would be publicised only within the village and which will attract generally low numbers of people. The majority of these events are not conducive to noisy activity and are proposed to occur once annually. The events with the greatest frequency are proposed four times per year, with an anticipated attendance of approximately ten people on each occasion. Collectively, the communal events are not expected to create unacceptable levels of disturbance and Environmental Health officers had no concerns following the receipt of information.

- 10.37. Regarding other possible nuisances emanating from the day-to-day use of allotments, officers have sought assurances from the applicants that typical sources of nuisance will be minimised. It is not the duty of the local planning authority to be unduly restrictive, however it has been agreed with the applicants that bonfires will not occur on the allotments, and nor will allotment holders keep any livestock (namely noisy birds) on site. Additionally, any communal events will not be accompanied by live bands and/or amplified music. These features are subject to a precluding condition. The applicants have provided an initial draft of allotment rules which seek to cover these issues, thus demonstrating their firm intention to minimise nuisance.
- 10.38. In conclusion, Environmental Health and the Designing Out Crime Officer from North Yorkshire Police are satisfied, and the applicants are agreeable to the requirement of certain controls by virtue of a planning condition. It is considered that the proposal would not cause an unacceptable impact on the amenity of neighbouring residential properties. Therefore the scheme complies with the requirements of Policy SP20 in respect of residential amenity.

Surface water flood risk

- 10.39. Policy SP17 (Managing Air Quality, Land and Water Resources) of the Local Plan Strategy states that flood risk will be managed by requiring the use of sustainable drainage systems and techniques to promote groundwater recharge and reduce flood risk. Development proposals will be expected to attenuate surface water run off to the rates recommended in the Strategic Flood Risk Assessment.
- 10.40. According to the Environment Agency's (EA) flood risk map for planning, the application site and its environs are in Flood Zone 1, which represents the lowest possible risk of flooding from rivers and sea. The EA's surface water flood risk map also indicates that the site itself is at a low risk from surface water flooding. As such this is a sequentially appropriate location for the development.
- 10.41. Despite the low risks as presented in public data, concerns have been raised across numerous neighbour objections about surface water flood risk being increased to neighbouring properties, with reference to how the implementation of the scheme would increase this risk by compromising existing drainage solutions.
- 10.42. The concerns have been carefully considered in consultation with the Lead Local Flood Authority (LLFA) and more information has been sought from the applicants to clarify the situation. Officers have also attempted to gain a clear understanding of the

historical situation with respect to flood risk in consultation with the current landowner and agricultural tenant.

- 10.43. Given the topography of the site, it is acknowledged that surface water run-off exits the site in a southerly direction. This has been supported by mapped flow-paths on software managed by the LLFA. Photographic evidence has also been received from one neighbour which demonstrates this flow-path: water exits the field at the southern boundary before being diverted east and then south again, where it enters the established watercourse (Leavening Beck).
- 10.44. In order to ensure that run-off bypasses properties on Wold View, there is a manmade structure located on the southern boundary, nearest to the south-east corner. The Council's Property Manager has confirmed that this is a brick soakaway – unconnected to any other drainage – which was installed at the instruction of the Council's land agent approximately 40 years ago after a flash flooding event. It is understood that a flooding event of this nature has not reoccurred since. The proposal would not interfere with this soakaway.
- 10.45. Concerns have been raised by neighbours that the proposal (specifically the aspect which seeks to create a new vehicular entrance on the southern boundary) would compromise a 'storm drain' which runs along the southern boundary of the field and aids in the diversion of run-off. The infrastructure referred to is an unsophisticated ditch drain and does not represent any formal drainage apparatus; indeed the drain was not in existence when officers visited on 9 February 2024. Photos have since been provided by neighbours which show that a ditch has since been dug along the southern boundary. Officers ultimately consider that there is no definitive evidence which indicates that this ditch provides an essential drainage solution to safeguard dwellings from run-off.
- 10.46. The applicants have nevertheless had a Flood Risk Assessment independently carried out. This confirmed that the site itself is at low risk from flooding but also states that the proposals are not expected to significantly displace floodwater during extreme events or increase flood risk to third parties. Regardless, the applicants have attempted to incorporate flood attenuation into the scheme, including with the implementation of a culvert at the point of access which can link into the aforementioned storm drain/ditch on the southern boundary.
- 10.47. Officers are satisfied that the proposal will not compromise existing drainage infrastructure and, additionally, the nature of the scheme will deliver sustainable surface water management solutions. A surface water management plan has been provided by the applicants; this demonstrates a list of natural measures which seek to aid in capturing water, or slowing its flow rate and thus potentially reducing the amount of run-off which currently exists. The plan incorporates precautionary measures; seeks to utilise more water than the field currently does, and maximise water retention on site. These mitigation measures can be ensured by planning condition.
- 10.48. The LLFA have considered the strategy and are satisfied with its contents. Officers consider that the applicants have rightly gone to considerable effort to consider surface water flood risk and mitigate any risk as a result of the changes to the ground

regime. Indeed, the scheme has the capacity to deliver a net gain in terms of water attenuation, which would weigh in the application's favour.

Impact on landscapes

- 10.49. Policy SP13 (Landscapes) of the Local Plan Strategy states that the Council will carefully consider the impact of development proposals on the Wolds Area of High Landscape Value, in which the application site is located. As such, the site is valued for its natural beauty and scenic qualities and has particular visual sensitivities due to its topography: rising above the built extent of the village, providing long-distance views of the surrounding area.
- 10.50. No objections have been received with respect to wider landscape impact, but reference to a break in the hedge being made was referenced as a landscape impact. It is considered to be a very localised in its impact, and there is already a 'gappy' hedge so the creation of the access would not represent significant harm to the landscape features of the site. Nevertheless Officers recognise the site does possess visual sensitivities to be taken account of, but it is considered that the proposal would, in principle, not lead to the loss or degradation of elements which are intrinsic to the landscape character. Although activity on site would increase, the proposed use is not significantly removed from the agricultural one associated with the site historically. Key boundary features are retained. The proposal does not seek to introduce tall structures onto the site.
- 10.51. Views into the site are limited to public vantage points from within the village itself, particularly from the south. There are no public spaces or rights of way that are well-distanced from the site which enable views into it. It is physically and visually connected to the built-up area of Leavening and its development would be seen in the context of the village itself.
- 10.52. Despite the unlikelihood of the proposal causing any significant degradation of the landscape's special qualities in principle, officers have nevertheless worked with the applicants to ensure that the impact is as low as possible. This has manifested in alterations to the original scheme:
- The re-positioning of the community built structures lower down the escarpment than initially proposed- to tie them closer to the existing built form of Leavening;
 - Incorporation of less-reflective materials (as opposed to glass) to reduce possible glint and glare;
 - The sheds and pavilion would be constructed of predominantly timber, with the latter deliberately designed to be agricultural in appearance – including a 15 degree pitch;

These design elements will be ensured by planning condition. Any external lighting and the landscaping of the site will also be conditioned. No external lighting is currently proposed, but once build and in use, many forms of lighting can then become permitted development.

- 10.53. With these revisions undertaken, officers consider that there would not be an unacceptable level of impact on the locally valued landscape and the proposal is therefore acceptable in terms of Policy SP13.

Protected species, biodiversity and off-site habitats

- 10.54. Policy SP14 (Biodiversity) of the Local Plan Strategy states that biodiversity should be conserved, restored and enhanced through a number of methods including resisting development proposals that would result in significant loss or harm. In considering proposals for development, proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them. This is not a proposal which is subject to the mandatory biodiversity net gain, but Policy SP14 seeks to ensure that proposals represent a net gain to biodiversity.
- 10.55. Concerns were raised by objectors about the presence of a badger sett which was either within or proximal to the site. Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to wilfully kill, injure or take badgers, or to interfere with a badger sett. With due regard to this sensitivity, the applicants sought the services of professional ecologists to fully understand any risks which might be posed by virtue of the proposal.
- 10.56. A report was submitted to the authority and shared with the Council's Ecologist. This concluded that the impact to badgers would be negligible and that there is unlikely to be an impact on the viability of the local badger population. It is considered that the proposal would not be in conflict with Policy SP14 or national legislation in relation to badgers. No other protected species were recorded.
- 10.57. In addition, it is considered that the application site has a presently has a low baseline for biodiversity, given its arable nature, and that the proposal would enhance levels, and represents a net gain in biodiversity. New perennial habitats are proposed in the form of the site's landscaping, including new hedging which will demarcate the site within the agricultural field, as well as features which are deliberately included to increase biodiversity, such as the 'bug hotels' to be affixed to the containers, which is to help with pollination of crops. The variety of planting regimes will help provide insects with a range of sources of food. The proposal is considered to be in conformity with the local and national policies which exist to protect and enhance nature and biodiversity.
- 10.58. This weighs in the application's favour as it is in strong alignment with Policies SP14 and SP15, which seeks to protect, enhance and create new habitats by increasing the diversity of species planted. National policy also states that planning decisions should contribute to and enhance the natural environment by providing net gains for biodiversity (NPPF Par 180).

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The application proposes the change of use of agricultural land to a community facility comprising allotments and other communal spaces. The change of use is supported in principle by Policies SP1, SP9, SP15 and SP11 of the Local Plan Strategy (2013).
- 11.2. The most pertinent issues relating to the application concerned access and highways safety, impact upon residential amenity, surface water flood risk and impact upon landscape. Matters relating to ecology were also considered.
- 11.3. Following consultation with relevant specialists and statutory consultees, there are no site-specific or technical issues (as outlined above) with the proposal and it is in compliance with relevant policies within the wider local plan.
- 11.4. The key benefit to the proposal would be the delivery of a community facility for the village of Leavening. It would represent a positive addition because is currently no existing facility which is comparable in terms of having the ability to deliver communal aspirations.
- 11.5. It is considered that, subject to relevant conditions, the proposal represents plan compliant development, and in accordance Policy SP19 – Presumption in Favour of Sustainable Development, the proposal is recommended for approval.
- 11.6. It is noted that some works have been undertaken, but these do not influence the application's consideration or its planning merits.

12.0 RECOMMENDATION

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

1. The development hereby permitted shall be begun on or before the date three years after the granting of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall be carried out in accordance with the following approved plans and supporting information:

Site Location Plan (scanned 26.01.2024)

Site Layout Plan (scanned 23.01.2024)

Perimeter Fence Plan (scanned 05.12.2023)

Pavilion/ Communal shed Elevations and Floor Plan with base details and brick plinth dimensions (scanned 07.03.2024)

Communal poly-tunnel details (scanned 13.11.2023);

Shed details (scanned 13.11.2023);

Greenhouse details (scanned 23.01.2024) and

Containers details (scanned 23.01.2024)

Reason: For the avoidance of doubt and in the interests of proper planning and to be in accordance with Policies SP1, SP13, SP14, SP17 and SP20 of the adopted Ryedale Plan – Local Plan Strategy

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

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development, in accordance with Policy SP20 of the adopted Ryedale Plan – Local Plan Strategy.

4. No part of the development must be brought into use until the Signage Plan (scanned 29.02.2024) has been implemented in accordance with the details hereby approved in writing by the Local Planning Authority and Local Highway Authority.

Reason: To provide for appropriate access arrangements in the interests of highway safety and the general amenity of the development, in accordance with Policy SP20 of the adopted Ryedale Plan – Local Plan Strategy.

5. Prior to the approved scheme being brought into use, the surface water drainage infrastructure shall be completed in full accordance with the approved Surface Water Management Plan with accompanying drainage regime (scanned 26.02.2024) and with reference to Surfacing Materials (scanned 13.11.2023). Any variation to the approved surface water scheme (including approved permeable surfacing materials) shall require the prior written approval of the Local Planning Authority.

Reason: To ensure effective drainage of the site and to ensure that the risk of any surface water run-off is not increased by virtue of the development in accordance with Policy SP17 of the Ryedale Plan – Local Plan Strategy.

6. Prior to the approved scheme being brought into use, the boundary treatment works shall be completed in full accordance with the approved details, with reference to Boundary Fence Details (scanned 23.01.2024) and Gates details (scanned 05.12.2023). Any variation to the approved details shall require the prior written approval of the Local Planning Authority.

Reasons: To protect residential amenity, ensure quality landscaping on the site, and to support biodiversity enhancement, in accordance with Policies SP20, SP13 and SP14 and SP15, respectively, of the Ryedale Plan – Local Plan Strategy.

7. Unless otherwise agreed in writing with the Local Planning Authority, the following activities shall not be permitted on-site at any time:
 - The keeping of animals, poultry or livestock
 - The burning of any waste including organic materials

- Amplified music and/or live bands
- The use of fireworks or any other pyrotechnics

Reason: To prevent harm to neighbouring amenity in accordance with Policy SP20 of the Ryedale Plan – Local Plan Strategy.

8. Unless otherwise agreed in writing by the Local Planning Authority, the site shall be landscaped in accordance with the details submitted to the Local Planning Authority, with reference to the Site Layout Plan (scanned 23.01.2024). All planting, seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, and any trees or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SP13 and SP20 of the Ryedale Plan, Local Plan Strategy.

9. The details of any external illumination which may be proposed on the site shall be submitted to an approved in writing by the Local Planning Authority, before their implementation, and thereafter so maintained.

Reason: To ensure that the appearance of the site during hours of darkness is acceptable within the locality and the wider landscape, and to protect the nocturnal character of the site, in accordance with Policies SP13 and SP20 of the adopted Ryedale Plan – Local Plan Strategy.

Target Determination Date: 13.03.2024

Case Officer: Matthew Lishman, matthew.lishman@northyorks.gov.uk

Appendix A – Site layout plan