

North Yorkshire Council

Community Development Services

Skipton and Ripon Area Constituency Planning Committee

03 June 2024

2022/24127/FUL - Proposed removal of 25 permanent residential caravans, conversion of the existing sawmill building into 2 apartments and the erection of 12 new dwellings with associated infrastructure, at the Old Sawmill Marton Road, Gargrave, Skipton BD23 3NN

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a full planning application for the development set out above.
- 1.2 The application is the subject of a Ward Member referral request.

2.0 SUMMARY

RECOMMENDATION: That planning permission be REFUSED for the reasons set out below.

- 2.1. The sawmill is three-storey stone-built and located to the west of Gargrave, in a countryside location outside the main built-up area and defined settlement boundary¹ of the Gargrave Neighbourhood Development Plan (July 2019) (the GNDP). The land around the Sawmill is used for the siting of static caravans, 8 of which are currently occupied on a six-month lease.
- 2.2. The site is situated adjacent to the river Aire. According to the latest Environment Agency (EA) Flood Map, the majority is within Flood Zone (FZ) 2, with some nearest the river in FZ3, and the EA object. The building is not statutorily listed or within a conservation area. However, it is identified in the GNDP as a built heritage asset which has special significance that is important to Gargrave's distinctive local character. As such, it qualifies as a non-designated heritage asset (NDHA).
- 2.3. The Sawmill would be converted into 2 apartments and its water wheel would be reconstructed. Inappropriate modern extensions and an adjacent building would be demolished. An external staircase would be created enclosed by a contemporary glass extension. In place of the caravans, 12 three-storey dwellings would be constructed, together with access and parking areas and flood mitigation works. The mill race would be partially exposed, and the site landscaped. None of the proposed dwellings would be affordable.
- 2.4. The starting point for the determination of the application is the development plan. The application must be determined in accordance with it unless material considerations indicate otherwise.
- 2.5. Due to its location, the proposal would be contrary to the spatial strategy for the location of new housing and the flood risk policies of the Development Plan and the National Planning

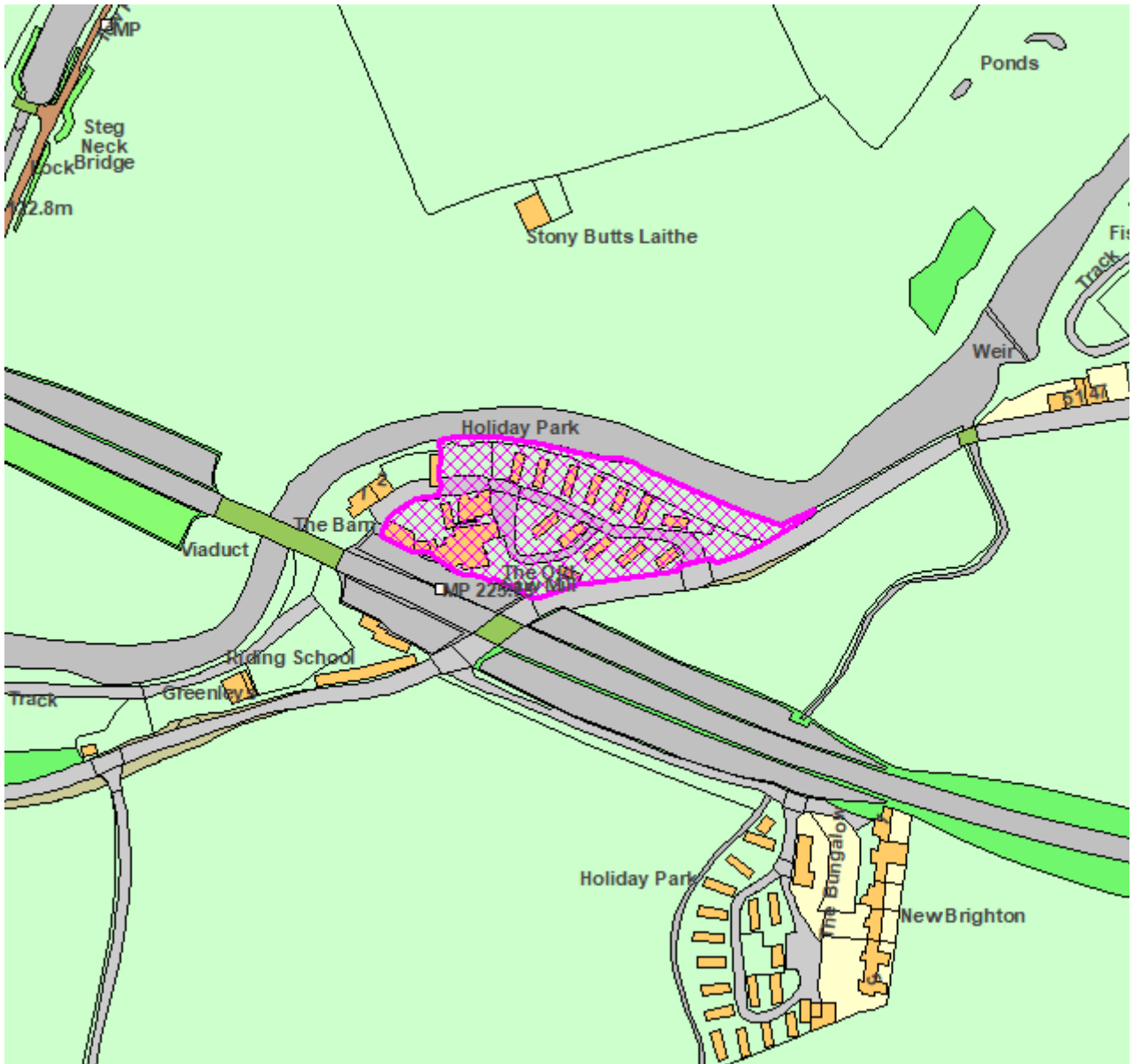
¹ Map 1, Policies Map, Gargrave Neighbourhood Development Plan July 2019

Policy Framework. There is a history of refusal on flood risk grounds, and the application should not therefore be approved unless there are material considerations which indicate otherwise.

- 2.6. Subject to conditions, the proposal would not harm the local landscape or the character and appearance of the area, the living conditions of existing or future occupants, protected species, and highway or railway safety. Nor is there any evidence the proposal would exceed the capacity of local infrastructure, and the density and housing mix would be appropriate having regard to the specific circumstances and other local plan objectives. The site layout would be acceptable in relation to designing out crime. Evidence that the proposal would not be viable with affordable housing provision has been independently evaluated, and the Council's appointed MRICS Valuer agrees. These are all neutral factors in the planning balance.
- 2.7. A certificate of lawfulness has been granted, certifying that the siting of caravans at the site for permanent residential occupation is lawful which creates a fall-back position. Furthermore, the scheme would provide 14 dwellings which would be flood resilient and well insulated, replacing residential caravans which are neither. Further still, the proposal would enhance the setting of the sawmill which is considered to be a brownfield site and an NDHA and deliver environmental improvements including a net gain in biodiversity. There would also be socio-economic benefits flowing from increased housing delivery. In isolation, the significant weight attached to these benefits would outweigh the conflict with the spatial strategy.
- 2.8. However, officers cannot be certain the scheme would not be partly located within FZ3b, in which case permission must not be granted. In any case, the sequential test has not been passed because sites at a lower risk of flooding are available. Furthermore, even if the sequential test had been passed, the exception test has not. Whilst the submitted evidence demonstrates that the proposed dwellings would be sufficiently flood resilient, it has not been demonstrated that they would be safe for their lifetime or that the proposal would not increase the risk of flooding elsewhere.
- 2.9. Because the site would be located in an area with a high probability of flooding, potentially within FZ3b, the proposal would be contrary to Local Plan Policy ENV6 and the policies of the Framework, and the EA has not been able to withdraw their objection. This weighs very heavily against the proposal. There are clearly a number of policies and considerations which pull in opposite directions. However, in the overall planning balance the benefits are not considered to outweigh the identified conflict with the development plan overall, and refusal is therefore recommended on flood risk grounds.



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3.0 **Preliminary Matters**

- 3.1. Access to the case file and full planning history on Public Access can be found here <https://publicaccess.cravencdc.gov.uk/online-applications/>
- 3.2. The following history applications are most relevant:

The site

- 3.3. **2019/20167/FUL** Proposed removal of approximately 25 caravans with permanent residential status to be replaced by two apartments in the converted mill, three pairs of semi-detached houses and five terraced cottages and one detached house, along with improved infrastructure. Also, demolition of a single storey dwelling attached to the mill. (Resubmission of refused application 30/2015/16492). Refused 11 June 2020 for the following reason:

“In the absence of evidence to the contrary, it has not been demonstrated that if the proposal proceeded it would not result in an unacceptable risk of flooding to both the application site with the proposed development being a highly vulnerable use, and the surrounding properties and area. The proposal is therefore considered to be unacceptable in principle and contrary to the requirements of the Craven Local Plan (Policy ENV6 and Appendix C) and Section 10 and paragraphs 7 and 102 of the National Planning Policy Framework.”

- 3.4. **30/2015/16492** Proposed removal of approximately 25 caravans with permanent residential status to be replaced by 2 No. apartments in the converted mill, 3 No. pairs of semi-detached houses and 6. No terraced cottages along with improved infrastructure. Also demolition of a single-storey dwelling attached to the mill. Refused 11 July 2018.

“The proposed development is not supported or accompanied by sufficient evidence and information to ensure that the development would not result in an unacceptable risk of flooding to both the proposed development and surrounding properties and area. The proposal is therefore considered contrary paragraph 7: Section 10 and paragraph 102 of the National Planning Policy Framework.”

- 3.5. **30/2012/12930** Certificate of Lawful Development for occupation of caravans sited on the land for permanent residential occupation. Certificate granted 7 November 2012.

Adjacent to the site

- 3.6. **30/2016/17631** Application for Lawful Development Certificate to confirm that riverside defence wall works have lawfully implemented application referenced 30/2013/13888 (west of the site). Certificate granted 23 February 2017.
- 3.7. **30/2013/13855** Discharge of Condition 2, 3, 4 & 5 of previously approved application 30/2010/10731 and discharge of duplicate conditions 3, 4, 5 & 6 of approved renewal application 30/2013/13888. Approved 20 December 2013.
- 3.8. **30/2013/13888** Extension of Time of previously approved application 30/2010/10731 (Change of use and extension of existing dwelling to form 2 No. two storey houses. Construction of 2 No. Semi-detached houses). Approved 21 October 2013.
- 3.9. **30/2010/10731** Change of use and extension of existing dwelling to form 2 No. two storey houses. Construction of 2 No. Semi-detached houses. Approved 6 September 2010.

4.0 Site and Surroundings

- 4.1. The sawmill is an historic, three-storey stone-built building with a stone slate roof. The site also contains static caravans, some of which are in use for permanent residential occupancy, and a two-story stone-built detached building. The site is bounded by the river Aire to the north and northeast and by the railway to the southwest. To the southeast the site has a road frontage with Marton Road from which pedestrian and vehicular access would be taken. The site is located within the countryside approximately 350m west of Gargrave's main built up area and settlement development boundary. From the application form the site area measures 0.49 hectares.

5.0 Description of Proposal

- 5.1. The application is in full for the creation of 14 dwellings, through conversion of the sawmill to form 2 apartments and the erection of 12 houses. Modern single-storey extensions to the front and side of the Old Sawmill would be removed, the existing water wheel to the north gable replaced, and an external staircase added within a lightweight glass stairwell extension. Balconies would be added to the east (front) elevation. Of the 12 new build dwellings, 1 would be detached to the rear of the sawmill, 5 would be terraced fronting Marton Road, and 6 would be semi-detached or linked semi-detached following the curve of the river Aire at the rear of the site. The existing access would be utilised, and a new internal access road formed. Part of the mill race would be exposed to form part of a triangular shaped central landscaped area. Flood mitigation works would be carried out adjacent to the river.

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 comprises:

- Craven Local Plan 2012 to 2032, adopted 12 November 2019
- Gargrave Neighbourhood Development Plan, made July 2019
- Minerals & Waste Joint Plan 2015 – 2030, adopted 2022

Emerging Development Plan – Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for the area. However, because it is at an early stage of preparation and has not yet been consulted upon it does not therefore attract any weight.

Guidance - Material Considerations

- 6.4. Relevant guidance for this application includes:

- National Planning Policy Framework December 2023
- National Planning Practice Guidance
- National Design Guide 2021
- Craven Landscape Appraisal 2002
- Craven Good Design SPD 2022
- Craven Flood Risk and Water Management SPD 2022
- Craven Affordable Housing SPD 2022

- Craven Green Infrastructure and Biodiversity SPD 2022
- BRE Site Layout Planning for Daylight and Sunlight

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and summarised below.
- 7.2. **Gargrave Parish Council:** The Parish Council have considered this application and recommend that planning permission be granted, subject to the extension of the 20mph speed limit to beyond the boundary of the site, and the provision of footpath/priority pedestrian walking area to the village and appropriate lighting.
- 7.3. **Mid Craven Division Ward Member Councillor Simon Myers:** Significantly, the Environment Agency has revised the flood risk map and the site is now located in Flood Zone 2. Had this been the case previously, the site would have formed part of the Gargrave Neighbourhood Development Plan as it was only removed due to flood risk. It is a brownfield site with lawful residential use and the existing accommodation is poor quality. The proposal is for good quality housing that will lead to the restoration of heritage assets on the site, and the application has the support of both Ward members, the Parish Council, and local residents.
- 7.4. **Environment Agency:** (July 2023) We have reviewed the additional information and are maintaining our objections on flood risk, environmental permitting, and Water Framework Directive Assessment grounds. However, we are able to remove our objection to nature conservation, provided that conditions are imposed to require:
- a) A lighting scheme to include a 'dark corridor' along the river Aire
 - b) Submission of a Landscape and Ecological Management Plan
 - c) Further bat survey work, and
 - d) A biodiversity net gain assessment to deliver a 10% net gain for river habitat.
- 7.5. **Environment Agency:** (September 2022)

Flood risk

- 7.6. We object in principle to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis. If you are minded to approve this application for major development contrary to our flood risk objection, we request that you contact us to allow further discussion and/or representations from us in line with the Town and Country Planning (Consultation) (England) Direction 2021.

Environmental permitting

- 7.7. Notwithstanding the objection in principle outlined above, we also object for the following reasons. Environmental Permitting. The proposed development is located adjacent to the river Aire, which is designated as a 'main river' and as such some elements of the proposal will also require an Environmental Permit from us, which is separate and in addition to any

planning permission that may be required. The modification of the riverbank and development within 8m of the river will require a flood risk activity permit under the Environmental Permitting (England and Wales), which is unlikely to be granted for the current proposal.

Water Framework Directive & Nature Conservation

- 7.8. We do not have enough information to know if the proposed development can meet the requirements of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, because no Water Framework Directive (WFD) assessment has been provided. We therefore object to the proposal and recommend that the planning application is refused. To overcome this objection, the developer should carry out and submit a WFD assessment.
- 7.9. **Network Rail:** Network Rail has no objection in principle to the development, but there are some requirements which must be met, especially with the proximity of the railway embankment. Conditions recommended to cover:
- a) Development Construction Phase and Asset Protection
 - b) Drainage (in relation to railway assets)
 - c) Boundary treatments, landscaping, and external lighting
- 7.10. **NYC Environmental Health:** Conditions recommended to cover:
- a) Submission of a Phase 1 contaminated land desk study and, in the event that they are required, a Phase 2 intrusive site investigation and Remediation Strategy, and Validation Report
 - b) Construction hours to be limited to 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays, and no Sunday or Bank Holiday working), and
 - c) Vibration and sound insulation schemes to address proximity to the railway. In the event that internal sound levels within the dwellings cannot be demonstrated then refusal would be recommended.
- 7.11. **NYC Heritage:**

Sawmill conversion:

- 7.12. The Old Sawmill is shown on the 1850 OS map and probably dates from around the late C18th and should be treated as a non-designated heritage asset. The removal of the modern extensions, additions and caravans would improve its setting. The principle of its retention and conversion are acceptable, subject to:
- a) Submission of a heritage statement
 - b) Amended design and materials for windows
 - c) Further details of the staircase enclosure
 - d) Methodology for the repair/display of the water wheel and race; and
 - e) Relocation of balconies

New-build dwellings:

- 7.13. The principle of the replacement of the caravans with suitably designed permanent dwellings is acceptable in principle in heritage and design terms, subject to:
- a) Provision of accurate computer-generated images to demonstrate the impact of the new-build dwellings on the setting of the Old Sawmill and wider landscape; and
 - b) Consideration of their impact and the need for a potential reduction in their number, and a more simplified roofscape.
- 7.14. **NYC Housing Strategy and Partnerships:** The applicant has proposed no affordable housing and submitted a viability assessment, arguing it would be unviable to provide any on this site. Following an appraisal, an independent assessment has confirmed this and so Housing Strategy and Partnerships has no objection.
- 7.15. **NYC Lead Local Flood Authority (LLFA):** It is noted that the site and adjacent river Aire have been hydraulically remodelled, and the recommendation was that the site be included in Flood Zone 2. A formal flood map challenge and submission of the hydraulic model should be submitted for review to the Environment Agency. The submitted documents are limited and the LLFA recommends that the applicant provides further information before any planning permission is granted, to include the following information:
- a) Detailed drainage strategy in accordance with the drainage hierarchy
 - b) Detailed drainage calculations
 - c) Exceedance Flow Plan
 - d) Maintenance Strategy; and
 - e) Final finished floor levels and proposed flood mitigation measures
- 7.16. **NYC Local Highway Authority:** No objection, subject to the following:
- a) Surface water attenuation tank not allowed under the adopted highway; and
 - b) Garages should internally measure 3m x 6m (single) and 6m x 6m (double).
- 7.17. **NYC Sport and Active Wellbeing:** The applicant will need to supply full details of the on-site POS, consider access improvements to existing provision, and provide a financial contribution towards improving the quality of the public open space within the village, subject to a deduction of any on site provision. The total cost of provision for off-site provision in lieu of any on site provision would be £53,015 (£10,395 for Children's Equipped play areas, £2,363 for Children's Informal play areas, and £40,257 for Youth and Adult play space), secured under either an S106 agreement or planning condition.
- 7.18. **Yorkshire Water:** If planning permission is to be granted, the following conditions are recommended:
- a) Site to be served by separate foul and surface water systems (points of discharge to be agreed)
 - b) No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority

Local Representations

7.19. The application was publicised by way of site and press notices and neighbours of the site were notified in writing. In response 6 local representations were received, 5 in support and 1 in objection. Whilst a summary of the comments is provided below, please see our website for the full comments.

Support:

- The site is brownfield and was in the draft Gargrave Neighbourhood Plan.
- There are existing dwellings on the site.
- It would not involve greenfield development or have any negative impacts for local residents in the area.
- The sawmill is of historic importance to the village and without the proposal it would decay and be lost.
- The proposal would be a beautiful development that would enhance the character and appearance of the area.
- Flood risk would be minimal, and the site has not flooded in 61 years.
- Infrastructure is already in place and demands on it would not increase.
- Due to the reduced number of dwellings sewerage demand would decrease.

7.20. Objection:

- The sawmill is not visible, and it is not of local interest.
- Footpath, lighting, and drainage infrastructure are inadequate.
- Access near a blind bend on a narrow road would harm highway safety.
- Increased traffic would be harmful to the local environment.
- Location on a flood plain where the road is frequently flooded.
- Vulnerable residents might be displaced from [cheaper] homes and concern over where displaced residents would be re-homed.

8.0 Environment Impact Assessment (EIA)

8.1. Having regard to the scale and nature of the proposal the development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment Regulations 2017) (as amended). Therefore, no Environmental Statement is required.

9.0 Main Issues

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

- Principle of development
- Flood risk
- Heritage assets
- Landscape and character and appearance of the area
- Highways
- Protected species and biodiversity
- Living conditions of neighbours and future occupants
- Planning obligations and viability
- Other matters

10.0 **ASSESSMENT**

Principle of Development

- 10.1. Policy SP4 of the Craven Local Plan 2012 to 2032 (the Local Plan) defines Gargrave as a Tier 3 Settlement and directs towards it a 'proportionate level' of growth to underpin its role as a 'local service centre'. Under paragraph (H) of the policy, proposals for additional housing growth on non-allocated land will be supported *within* the main built-up area (MBA). Under paragraph (I)(c), the release of non-allocated sites for housing that *adjoin* the MBA will be supported, where development is justified by special economic, environmental, or social circumstances. Where they meet a list of criteria, Policy H1 of the Gargrave Neighbourhood Development Plan (the GNDP) supports new housing proposals *within* a defined settlement boundary.
- 10.2. Unlike the GNDP, the Local Plan does not define a settlement boundary. Instead, the MBA is defined as "the settlements closely grouped and visually well related buildings and any associated space between these buildings". Exclusions include "individual buildings or groups of dispersed buildings or ribbon developments which are clearly detached from the main built-up area of the settlement". Because the sawmill relates more to the surrounding countryside and is clearly detached from Gargrave, the proposal does not fall within the MBA, nor does it adjoin it. Furthermore, the proposal is located outside of the GNDP settlement boundary by some 350m.
- 10.3. In policy terms the site is therefore located in a countryside location. Local Plan Policy SP4 (K) sets out a number of exceptions to the general approach to limit new homes in the countryside. However, the proposal, as a whole, does not meet them. Therefore, there would be conflict with Local Plan Policy SP4 and GNDP Policy H1. The recommended weight to be given to this conflict and other considerations is returned to below.

Flood Risk

- 10.4. Local Plan Policy ENV6 states that growth in the Craven area will help to avoid and alleviate flood risk by development taking place in areas of low flood risk, wherever possible with the lowest flood risk, taking account of the development's vulnerability to flooding and by applying the necessary sequential and exception tests. Amongst other things, the policy also requires that development incorporates sustainable drainage systems (SUDS) or other appropriate means of water management, and adequate provision for foul and surface water disposal.
- 10.5. Under the heading Flooding, paragraph 6.4.6 of the GNDP states that Gargrave has a history of flooding problems related to surface water drainage and water courses, in particular around the river Aire. Paragraph 6.4.9 (first) refers to the need for proposals such as this to follow the sequential test and, if it is passed, the exception test. Paragraph 6.4.9 (second) states the Parish Council has significant concerns in relation to the need for new development to be sited and designed to reduce the risk of flooding to both existing and new properties in Gargrave.
- 10.6. GNDP Policy G14 states, where allowed in FZs 2 & 3, development should incorporate flood mitigation measures. In particular, the use of water-resistant materials, elevated

siting of electrical systems and appliances, and the setting of ground floor levels where practical so as not to be affected by flooding. New development must also incorporate flood resistant construction to prevent the entry of water. Policy G15 requires new development is designed to minimise surface water runoff and incorporate SUDS schemes wherever possible.

- 10.7. Framework paragraph 165 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing risk elsewhere.
- 10.8. Framework paragraph 167 requires a sequential, risk-based approach to the location of development. The aim set out in paragraph 168 is to steer new development to areas with the lowest risk of flooding from any source. Furthermore, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Also, that the Strategic Flood Risk Assessment (SFRA) will provide the basis for applying this test.
- 10.9. Application reference 2019/20167/FUL was supported by a sequential test, and it was accepted at that time that there were no reasonably available alternative sites within Gargrave. However, the submitted Flood Risk Sequential test is dated April 2016 and adoption of the GNDP post-dates it, and the GNDP includes housing allocations which are in areas at lower risk of flooding. Whilst one is the subject of current application reference ZA/23/25403/FUL and is not therefore available, site allocation G2/1 Neville House, Neville Crescent remains, with an indicative capacity for 14 dwellings. Furthermore, from the Council's Strategic Housing & Employment Land Availability Assessment (SHELAA) other sites may also be available. The proposal therefore fails the sequential test.
- 10.10. In considering the above policy requirements at the time when applications reference 30/2015/16492 and 2019/20167/FUL were determined, the Environment Agency's (EA) modelling and the SFRA showed the site to be within FZ3b, which is the functional floodplain deemed most at risk of flooding. According to Table 2 within PPG Paragraph: 079 Reference ID: 7-079-20220825 (Flood risk vulnerability and flood zone 'incompatibility'), more vulnerable development, which includes buildings used as dwellinghouses, should not be permitted within the functional floodplain. As a result, both applications were refused, and neither were the subject of an appeal.
- 10.11. The EA confirmed in March 2023 that they had updated their modelling of the river Aire and that most of the site is now located within FZ2, but that some remains within FZ3 nearest the river. In part, this confirms the applicant's assertions in relation to the site [that it is within FZ2]. However, because some remains within FZ3, and because the Craven SFRA (2010) shows the site still to be in Flood Zone 3b, the EA are maintaining their objection until such time as the SFRA is updated. Furthermore, that they do not have enough information to know if the proposed development can meet the requirements of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, because no Water Framework Directive (WFD) assessment has been provided.
- 10.12. The applicant's submissions challenge this position with topographical survey work. Essentially, seeking to contest the application of the government's flood map for planning in

determining flood risk. The submitted FRA and topographical evidence demonstrate that most of the site is located within FZ2 with a medium risk of flooding. However, in the absence of any other hydraulic modelling of the river, it is necessary to consider the high probability of flooding identified by the EA Flood Map on part of the site, as it is the most recent and accurate modelling available. Beyond topographical survey work, the onus is on the applicant to demonstrate that the EA flood map for the site is not to be relied upon. The Council as Lead Local Flood Authority recommend that a formal flood map challenge and submission of the hydraulic model is submitted for review to the EA.

- 10.13. The submitted FRA includes hydraulic modelling of Crosber Beck, a potential source of surface water flooding, and concludes that the site can be considered to be in FZ2. However, it recognises that for climate change scenarios on the river Aire that most of the site becomes inundated with depths varying from 690mm and 960mm for the 30% and 50% allowances respectively. To provide suitable protection from climate change, the existing flood defence wall would be extended to the east, as well as increasing the crest level of the existing wall. In addition to the defence walls, the FRA states that it will be necessary to raise the access road into the site so that overland flows cannot enter in this area as it is one of the lowest areas of the site. However, the EA confirm they would be unlikely to grant a flood risk activity permit under the Environmental Permitting for the modification of the riverbank and development within 8m of the river.
- 10.14. The submitted FRA is dated (January 2020) and has not been revised following the EA remodelling of the river. Furthermore, it is unclear where the boundary between FZ3a and FZ3b lies on the ground and the new Council has yet to complete its SFRA. If the updated SFRA were to find that the site is located within FZ3a, and if the sequential test had been passed, then the Framework's exception test might be applied. However, the sequential test has not been passed. Even if it had, were the SFRA to find that part of the site is located within FZ3b, then permission should simply not be granted.
- 10.15. Based on the evidence before officers, including the submitted FRA, the revised EA Flood Map indicates that units 12 & 13 and the rear gardens of plots 8-13 inclusive, and potentially some of the parking areas would be sited within FZ3. The applicant has been asked to consider this but has requested determination as submitted.
- 10.16. The agent for the applicant comments that there is an updated topographical survey which shows the actual levels on the site, and that this updated survey provides evidence that the previous topographical information was incorrect and not based on the current site levels. The FRA concludes that '*the site can be considered to be in Flood Zone 2 (Medium Probability)*'.
- 10.17. Whilst the agent accepts that the updated EA flood map refers to FZ3, they state that there is no evidence to suggest that this is FZ3b, especially bearing in mind the updated topographical information and the conclusions of the specialist report from Aecom. Furthermore, they highlight the Aecom report also advises:

'Additional modelling has demonstrated that the removal of the floodplain storage currently provided by the site does not significantly increase flood levels offsite, for any of the modelled scenarios. The total volume of flood storage provided by the current site is minimal when compared with the total flows and volume within the

wider River Aire catchment. Therefore, the required flood mitigation/protection strategies can be incorporated within the development without increasing or exacerbating flood risk to others.'

- 10.18. However, that is not compatible with the siting of units 12 and 13 within FZ3 and the report predates the revised hydraulic modelling of the river Aire. Furthermore, water would be likely to stand underneath the caravans whereas it would be displaced by the new dwellings and flood defence and mitigation works. As things stand, and until the flood map for planning is successfully challenged and/or the SFRA reviewed to demonstrate otherwise, on the basis of the latest evidence part of the development remains in FZ3.
- 10.19. Officers cannot be certain whether part of the site lies within FZ3b, or that the proposal would not increase the risk of flooding downstream. A planning application is not the vehicle to challenge the flood map, and part of the proposed development falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. Furthermore, having reviewed the submitted evidence, the EA cannot remove its objection. Even if it is not FZ3b and is FZ3a instead, planning permission should only be granted following the sequential test where the exception test is also met.
- 10.20. The exception test is set out at Framework paragraph 170 as follows:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 10.21. Amongst other things, Framework paragraph 173 states that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere, and that where appropriate applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

- 10.22. The sequential test has not been passed. Even if the view were taken the sawmill cannot be located elsewhere to deliver the socio-economic and heritage benefits, and so the sequential test was passed, the application is not supported by a demonstration the exception test is met, and within the site not all development is located within areas of lowest flood risk.
- 10.23. Flood resilience measures are detailed within the proposal (ceramic tiles to ground floors, living accommodation and heating systems located at first floor or above, sumps and non-return valves). This would ensure that the development could be quickly brought back into use in the event of a flood without significant refurbishment and comply with Framework paragraph 173 b). However, such considerations do not overcome the need to meet the requirements of the sequential and exception tests or overcome the policy conflict. Anecdotal evidence suggests that the site has never flooded, but this should be given only limited weight.
- 10.24. Because it is their case that the site is located entirely within FZ2, it is perhaps understandable the applicant has not submitted any evidence in relation to the exception test. If none of the site were ultimately found to be within FZ3b under the SFRA, then the sustainability benefits to the community that would accrue from the addition of 14 flood resilient dwellings to the local housing supply and the regeneration of the historic sawmill brownfield site might well satisfy the first limb of the exception test. However, officers cannot be certain that it is FZ3a, or that if it were the second limb of the exception test would be satisfied.
- 10.25. In conclusion on this main issue, part of the site would be located in an area within FZ3 which has a high probability of flooding, potentially within FZ3b with the highest risk where development should not be permitted. Having considered the submitted evidence and following discussions with the Council, the EA has not been able to withdraw their objection. The sequential and exception tests have not been passed, and the proposal would therefore be contrary to Local Plan Policy ENV6 and the policies of the Framework.
- 10.26. On a procedural point, should the Committee resolve to grant planning permission for the development notwithstanding the recommendation, the local planning authority is required to consult the Secretary of State² under the Town and Country Planning Consultation (England) Direction 2021 [*This has been replaced by the 2024 direction. However, the revised direction only applies to applications received after 26 January 2024 which the application predates*].
- 10.27. Consultation is necessary because the proposal is for “flood risk area development”³. The Secretary of State then has 21 days from the date of receipt of the consultation to determine whether they intend to issue a direction under section 77 of the Town and Country Planning Act 1990. If they do not, the local planning authority may proceed to determine the application.

Heritage assets

² Paragraph 11, The Town and Country Planning (Consultation) (England) Direction 2021

³ Paragraph 8, The Town and Country Planning (Consultation) (England) Direction 2021

Designated heritage assets

- 10.28. To the northwest and northeast are a number of listed canal structures (all Grade II); Steg Neck and Scarland Locks and Bridge No 169. To the west beyond the adjacent railway embankment and viaduct, are an aqueduct carrying the canal over the river Aire and Priest Holme Bridge (both also Grade II listed). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving the Listed Building(s) or its setting or any features of special architectural or historic interest which it possesses. In accordance with Framework paragraph 205, great weight should be given to the conservation of these assets.
- 10.29. In development plan terms, GNDP Policy G5 Protecting Local Heritage Assets states that heritage assets enhance local distinctiveness and should be preserved, and Part 7 of Policy G11 requires historic stone bridges should be protected and enhanced as important landscape features. Local Plan Policy ENV2 Heritage states that Craven's historic environment will be conserved and where appropriate enhanced, and its potential to contribute towards the economic regeneration, tourism and education of the area fully exploited. Part a) of the policy states that particular attention will be paid to the conservation of those elements which contribute most to the district's distinctive character and sense of place. The policy specifically lists mills and the buildings, bridges, locks, and structures associated with the Leeds-Liverpool Canal.
- 10.30. Whilst the proposal would not directly affect these listed structures or impinge on key views of them, the sawmill site makes a positive contribution to their wider setting. However, in the context of the existing residential caravans this positive contribution is somewhat diminished. Views south of the scheme obtained from the canal would be distant, across intervening agricultural land and the river Aire. Views of the site east from the canal are restricted by the railway. Together, these features create a degree of visual separation, and given the separation distances the proposal would not compete with or distract from canal heritage assets. Architecturally, the scheme would be a better fit in terms of materials and design than the existing caravans. For all these reasons, it is not considered that the proposal would harm the significance of canal heritage assets by way of harm to their setting.

Non-designated heritage assets (the sawmill)

- 10.31. The sawmill is not a designated heritage asset and at present the Council has no local heritage list. As such, it would be disproportionate to require a heritage statement. However, contrary to objection received that the sawmill is not of local interest, the sawmill might be considered a non-designated heritage asset (NDHA).
- 10.32. The PPG definition of NDHAs includes buildings identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets. The Council's heritage adviser considers the building likely dates from the late eighteenth century and that it would meet Historic England's guidance to qualify for local listing.

- 10.33. Furthermore, anecdotal evidence suggests the sawmill was initially built to cut timbers necessary for construction of the canal and railway. Further still, the building is identified in the GNDP as a built heritage asset which has special significance that is important to Gargrave's distinctive local character. Notwithstanding objection to the scheme that the sawmill is not of interest, it would not therefore be irrational or contrary to the PPG to find that it qualifies as being an NDHA.
- 10.34. Local Plan Policy ENV2 paragraph e) states that support will be given to proposals which conserve Craven's NDHAs. Amongst other things, GNDP Policy G5 states that non-designated heritage assets enhance local distinctiveness and should be preserved in a manner appropriate to their significance, in accordance with guidance in the Framework. Framework paragraph 209 requires that the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application.
- 10.35. The Council's heritage adviser confirms that removal of the modern extensions, additions and the caravans would improve the setting of the sawmill, and that the principle of its retention and conversion is acceptable subject to detail. He also confirms the acceptability of the principle of replacement of the caravans with suitably designed permanent dwellings in heritage and design terms, subject to the deletion of render to one of the terraced dwellings.
- 10.36. Although he recommends the provision of computer-generated images to demonstrate the impact of the new-build element on the setting of the sawmill and inform whether there is a need to reduce the number of dwellings, it is considered the submitted plans and perspective view are sufficient to describe the proposal. Taking a balanced view and having regard to the existing appearance of the site, the number of dwellings proposed is considered to result in an appropriate form of development that would enhance the setting of the sawmill. Whilst he also recommends the relocation of balconies to the rear elevation of the sawmill, they are considered to add interest to the front elevation in a way that is sympathetic to its industrial history.
- 10.37. In concluding on this main issue, the proposal would not harm the setting of listed buildings in the area. Subject to planning conditions to require precise and amended minor details, the proposal would deliver significant improvements to both the setting and appearance of the NDHA. As some supporters' comment, reuse of the sawmill would secure the building's historic contribution to Gargrave's distinctive local character for the long term. Therefore, in heritage terms the proposal would accord with Local Plan Policy ENV2, GNDP Policy G5, and the Framework.

Landscape and character and appearance of the area

- 10.38. Local Plan Policy ENV1 Countryside and Landscape expects new development proposals to respect, safeguard, and wherever possible, restore or enhance the landscape character of the area. Proposals should also have regard to the relevant Landscape Character Appraisal/Assessment, and specifically to the different landscape character types that are present in the plan area.
- 10.39. Part 1 of GNDP Policy G11 Protecting and Enhancing the Rural Landscape Setting and Wildlife of Gargrave requires that development proposals outside of the settlement

boundary should respect, safeguard, and wherever possible restore or enhance the landscape character of the area. Framework paragraph 180 b) includes that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

- 10.40. According to the Craven Landscape Appraisal (the CLA), the site is located outside of the main settlement of Gargrave (which like most settlements is excluded from the CLA), at the edge of the 'Semi-enclosed lowland, rolling drumlin field pasture' landscape character type. The CLA describes, in part, the characteristics as being a distinctive interlocking landscape of a 'field' of rolling drumlins, which limits views from within. The railway embankment screens the site from the west, and views from within the wider landscape are therefore limited. The site was previously used as an industrial site, and more recently for the siting of caravans. For all these reasons, it is not considered that the proposal would result in any unacceptable landscape harm.
- 10.41. Local Plan Policy ENV3 sets out broad principles which will achieve good design and includes that development should respond to its context. Furthermore, the design of new development should respect the form of existing and surrounding buildings, including density, scale, height, and massing. Under the policy development should also maintain and enhance townscapes and seek to create a sense of place and enhance local distinctiveness. The Craven Good Design SPD 2022 provides further guidance. Similarly, and amongst other things, GNDP Policy G7 requires that new development responds to a site's characteristics and reinforces local distinctiveness, and the use of high-quality materials.
- 10.42. Framework paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It continues that 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. According to paragraph 135 b), planning decisions should ensure that developments are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping. Amongst other things, paragraph 135 c) requires that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 10.43. The proposed materials are high quality and appropriate to the context, and precise details could be a conditional requirement. The new-build dwellings would be seen in close views from Marton Road, and in more distant views across agricultural land from the towpath of the Leeds-Liverpool Canal. While the terrace would partly obscure some views of the sawmill from Marton Road due to its scale, it is RIBA Architect designed and well executed. Subject to minor revisions (to ensure consistency of external finishes, precise details, and window style), they would closely follow the local vernacular and be a positive addition.
- 10.44. In wider views from the Leeds-Liverpool Canal the proposed dwellings would be greater in scale than the caravans they would replace and therefore be more visible. However, they are appropriately designed as contemporary additions and well detailed, and they would follow the curve of the river resulting in an attractive layout. The scheme is considered to be sympathetic to local character and responds well to its context.

- 10.45. The proposal would not be harmful to the local landscape or the character and appearance of the area. Therefore, there would be no undue conflict with Local Plan Policy ENV3, GNDP Policies G7 and G11, the Craven Good Design SPD 2022 or the Framework in these regards.
- 10.46. Highways
- 10.47. Local Plan policies ENV3, ENV7, INF4, and INF7, together and amongst other things, require new development provides safe and convenient access for all and adequate parking provision. GNDP Policy G13 supports improvements to accessibility, including for walking and cycling. Framework paragraph 89 states that beyond existing settlements in rural areas, it is important to ensure decisions exploit any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
- 10.48. The submitted Transport Statement sets out that there are no accident records for Marton Road in the 5 years which precede it and identifies the availability of bus stops and walking and rail routes. It also sets out policy compliant levels of parking provision and makes the case that traffic generation will not exceed traffic levels generated by the existing use, and that any improvements to access visibility would be an overall improvement.
- 10.49. Gargrave Parish Council comment they would wish to see a 20mph speed limit covering the site and the provision of a footpath to the village with appropriate lighting. However, having regard to observed traffic speeds, the relatively small scale of the proposal and the fall-back position, it is not considered necessary to require a speed limit order. Beyond the centre of the village Marton Road lacks a footway, characteristic of many of the district's rural areas. However, due to the required length it would not be a proportionate, viable, or reasonable proposition to expect the development to deliver a footway into the village. Furthermore, given the very rural character of the surroundings, footway provision would have an urbanising effect, and any associated street lighting would be harmful to the dark landscape. Further still, the Council as local highway authority has no objection on highway safety grounds, and the absence of objection is not conditional on either of these requirements.
- 10.50. The width of the access into the site allows for two-vehicle passing, and it is of an appropriate geometry. Parking provision would be sufficient to meet the needs of the proposed development. Although it is slightly restricted in an easterly direction due to the curve in Marton Road, as an objector highlight, forward visibility is adequate. The access wing-wall does not obscure drivers' intervisibility at the junction. Furthermore, there is a lawful fall-back position for the siting of residential caravans with their associated traffic generation. As a result of these factors, it is not considered that the proposal would result in conditions that would be harmful to highway safety or the environment, or lead to conflict with the above policies.
- 10.51. Framework paragraph 115 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. From the above, the proposal would not harm highway safety or result in severe residual cumulative impacts, or

unduly conflict with the above highways policies. Refusal on highway grounds would not therefore be justified.

Protected species and biodiversity

- 10.52. Under the Environment Act 2021 and the statutory framework for biodiversity net gain (BNG), every grant of planning permission is deemed to have been granted subject to a general biodiversity gain pre-commencement condition. Unless the proposal falls under one of the exemptions (set out in Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations [2024]), the condition requires developers provide at least a 10% net gain in the biodiversity value found on the site prior to the development. However, the application was made before day one of mandatory BNG on 12 February 2024. Therefore, it is exempt from statutory BNG.
- 10.53. Nevertheless, Local Plan Policy ENV4 provides that all development will be accompanied by improvements in biodiversity and make a positive contribution towards achieving a net gain. This is consistent with Framework paragraph 180 d) which states that planning decisions should minimise impact on and provide net gains for biodiversity. The Craven Green Infrastructure and Biodiversity SPD 2022 provides further guidance.
- 10.54. Following the submission of a Preliminary Ecological Appraisal, which found no suitable habitat for amphibians, or otter holts, subject to conditions the EA has withdrawn its earlier objection on the grounds of river ecology. Following the submission of a Bat Assessment no evidence of roosting bats was found, either within the sawmill or the adjacent building to be demolished.
- 10.55. The existing site is devoid of significant native vegetation, largely being taken up by caravans and their associated decking and hardstanding areas. The proposal includes the formation of a central green, which would contain an exposed section of the mill race and also act as a surface water attenuation pond. Together with landscaping to gardens and boundary planting, and subject to detailed landscaping conditions to include bird and bat roost features, it is considered the proposal would deliver a net gain in biodiversity. Subject to conditions, the proposal would therefore comply with Local Plan Policy ENV4, the Craven Green Infrastructure and Biodiversity SPD, and the Framework.

Living conditions of neighbours and future occupants

- 10.56. Local Plan Policy ENV3 e) and ENV3 f) require that development should protect the amenity of existing residents and create an acceptable level of amenity for future occupants. Criterion 6 of GNDP Policy G7 requires that new development does not harm general amenity. Framework paragraph 135 f) states that decisions should ensure development creates places with a high standard of amenity for existing and future users.
- 10.57. Proposed unit 14 would be detached and sited to the rear of the sawmill and would face residents of an existing barn conversion at an angle across a track. This situation would inevitably lead to a degree of reduced privacy for existing occupants. However, this is not to be unexpected for a residential development of this type, and officers judge the effect on privacy as not being to an unacceptable degree. There would be no direct window to window or direct overlooking issues between these dwellings and the proposal would not

be overbearing in their outlook, or lead to any unacceptable loss of daylight or sunlight for existing occupants. Furthermore, no third-party objection has been received in these regards.

- 10.58. In terms of future occupants, the apartments formed through conversion of the sawmill would both have a good outlook to the south, east and west, and each would have a balcony for outdoor seating. From their front units 3-7 inclusive (the terrace) would enjoy a good outlook across Marton Road and internally within the site towards the central green from their rear. Units 8-13 inclusive would all benefit from an extensive rear outlook across the river towards the countryside and internally towards the green at their front. All dwellings would benefit from sufficient space internally and outdoor amenity space for future occupants. The proposed design and layout allow for adequate separation between dwellings so as not to give rise to any unacceptable privacy concerns.
- 10.59. Due to the proximity of the railway, Environmental Health recommend a condition to require a vibration and sound insulation scheme. In the event that acceptable internal sound levels within the dwellings cannot be demonstrated then refusal would be recommended.
- 10.60. Whilst the concern is understood, the railway is elevated and there is a reasonable degree of separation between it and the proposed dwellings, and all dwellings have secondary aspects which could provide for mechanical ventilation if necessary. Furthermore, although the Settle Carlisle Railway is a main line, it is not comparable with main lines in an urban area where train movements would be much more frequent. Further still, the proposed dwellings would be far better insulated from railway noise and vibration than the caravans.
- 10.61. A planning condition would be capable of addressing the concern and refusal on this basis would not therefore be warranted. Any scheme that did not provide for acceptable internal sound and vibration levels under a discharge of condition application could be refused.
- 10.62. Subject to conditions, the proposal would provide a good standard of living conditions for future occupants and those of the existing housing would not be unacceptably harmed. Therefore, the proposal would be policy compliant in these regards.

Planning obligations and viability

- 10.63. Local Plan Policy H2 states that for proposals involving 11 or more dwellings on brownfield sites they should deliver not less than 25% affordable housing provision. Under GNDP Policy G3, all housing schemes will require 30% affordable housing provision. However, criterion d) of Policy H2 states that lower levels of provision may be acceptable, if it can be clearly demonstrated that exceptional circumstances exist which justify it. Policy G3 is caveated that it is subject to viability, and the adopted Craven Affordable Housing SPD reaffirms this approach.
- 10.64. The applicant has agreed draft Heads of Terms, to include the payment of the required financial contribution towards off-site open space or sports and recreation facilities in accordance with Policy INF3 of the Local Plan and GNDP Policy G10. However, the proposal is advanced on the basis that it would not be viable with the required affordable housing contributions.

10.65. In this regard Framework Paragraph 58 states:

“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.....”

10.66. The PPG advises (Paragraph: 007 Reference ID: 10-007-20190509):

“Such circumstances could include, for example where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people); or where a recession or similar significant economic changes have occurred since the plan was brought into force.”

10.67. PPG Paragraph: 008 Reference ID: 10-008-20190509 includes:

“Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.”

10.68. The PPG further advises that complexity and variance is inherent in viability assessment. To improve clarity and accountability it is an expectation that any viability assessment is prepared with professional integrity by a suitably qualified practitioner.

10.69. The 2015 submitted scheme was accompanied by evidence of viability, in support of the position that the scheme would not be viable with affordable housing contributions. This was independently appraised and corroborated by the District Valuer. The subsequent 2019 scheme was accompanied by the same evidence, but it was not re-appraised. The decision notice for both earlier refusals did not cite the absence of affordable housing contributions as a reason for refusal. However, due to the passage of time, and in order to ensure that evidence of viability is contemporaneous, the applicant was invited to refresh their appraisal under this re-submission. Updated evidence of viability was duly submitted.

10.70. Since earlier refusals, there has been the outbreak of the Novel Coronavirus (Covid-19) declared by the World Health Organisation as a “Global Pandemic” on 1 March 2020. More recently, war in Ukraine and the Middle East, global commodities inflation, interest rate rises, and supply chain issues. Furthermore, the proposal involves repair and

refurbishment of a non-designated heritage asset. All of these factors may have further impacted on viability.

- 10.71. Nevertheless, in accordance with the above policies and guidance, the updated viability evidence was appraised by a Senior Associate Director of BNP Paribas Real Estate, who is a member of the Royal Institute of Chartered Surveyors specialising in UK development viability and affordable housing. He confirms that the proposal would not be viable with affordable housing contributions, and the Council's Housing Strategy and Partnerships consultee confirms they have no objection.
- 10.72. In the absence of any evidence to the contrary and having regard to the particular circumstances of the case, significant weight should be given to the viability appraisal and the findings of its independent evaluation. In so doing in this case, because it has been demonstrated it would be unviable with them, without affordable housing contributions the proposal would accord with the provisions of Local Plan Policy H2 and the Craven Affordable Housing SPD, and the Framework.

S106 Legal Agreement

- 10.73. The following Heads of Terms have been agreed with the applicant for this application:

Table 1		
Category/Type	Contribution	Amount & Trigger
POS Delivery and Maintenance	£53,015 (£10,395 for Children's Equipped play areas, £2,363 for Children's Informal play areas, and £40,257 for Youth and Adult play space)	To be confirmed

- 10.74. The proposal is a major housing development near to Gargrave, which is likely to include families with children and young adults. The requested sums for off-site contributions towards improving children's equipped play areas, children's informal play areas, and youth and adult play space within Gargrave are therefore reasonable and necessary, in accordance with Local Plan Policy INF3 and GNDP Policy G10.
- 10.75. It is considered that the above S106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

Other matters

Contaminated land

- 10.76. Local Plan Policy ENV7 encourages the remediation of contaminated land, and Framework Paragraph 189 a) requires that a site be suitable for its proposed use, taking account of any risks from contamination. Due to its historic use the site has the potential to be at risk from the effects of contamination. However, this is a matter capable of being addressed by the use of planning conditions, as recommended by the Environmental Health consultee.

Designing out crime

- 10.77. Part o) of Local Plan Policy ENV3 Good Design requires the design of all new developments promotes safe living environments, reduce opportunities for crime and the fear of crime, disorder, and anti-social behaviour. GNDP Policy G8 Planning Out Crime requires proposals demonstrate how the design has been influenced by the need to plan positively to reduce crime and the fear of crime, and how this will be achieved.
- 10.78. The proposed layout would provide good levels of natural surveillance of parking and open space areas, and the river provides a natural defence to the rear and one side and the railway embankment to the other. As a result, there would be no undue conflict with the above policies or Framework paragraphs 96 b) and 135 f), which require that decisions should aim to achieve safe communities where crime and disorder and the fear of crime do not undermine quality of life.

External lighting

- 10.79. Together, Local Plan Policies ENV1, ENV3 and ENV4, GNDP Policy G7, and paragraph 191 c) of the National Planning Policy Framework, seek to ensure that light pollution from artificial lighting does not harm local amenity, the dark landscape and nature conservation interests. Furthermore, the submitted Preliminary Ecological Appraisal recommends a wildlife friendly lighting scheme. This is also a matter capable of being addressed by an appropriately worded planning condition as recommended by the EA.

Housing mix and density

- 10.80. Together, Local Plan Policy SP3 Housing Mix and Density and Framework paragraph 60 require an appropriate housing mix and density. GNDP Policy G3 requires all new proposals for housing development to demonstrate how they are contributing to maintaining a mix of types and size of dwellings in the parish with reference to the latest housing needs data. Under the policy, proposals which over provide one type or size of dwelling will not be permitted.
- 10.81. The density proposed would be approximately 29 dwellings per hectare and this would be appropriate to the local context. The application does not set out housing mix. However, from the submitted plans the proposal would comprise 1 two-bedroom apartment, 5 two-bedroom terraced houses (with study), 1 three-bedroom apartment, and 7 four-bedroom detached or semi-detached dwellings. As a scheme for all market housing, this would not fully meet the general view on housing mix the local population is likely to need over the plan period set out in the Strategic Housing Market Assessment (SHMA).
- 10.82. The scheme is high on one/two bed dwellings (43% vs a suggested mix of 18.9%), low in 3 bed dwellings (7% vs 57.3%), and high in 4 bed dwellings (50% vs 23.8%). However, the proposal meets other local plan objectives in the restoration of the sawmill NDHA and there are considerations in relation to viability. Furthermore, the high number of two-bed units are likely to be more accessible to first time buyers than a higher number of three bed units. Therefore, on balance, the proposed mix is considered to be justified in this case in accordance with paragraph 4.33 under Policy SP3.

Local infrastructure

- 10.83. Public comment in support of the scheme includes that local infrastructure is already in place and demands on it would not increase. Third-party objection is made to the contrary, and Gargrave Parish Council would wish to see a lit footpath created into the village. Furthermore, the Council's Sport and Active Wellbeing consultee asks for access improvements to public open space within the village to be considered.
- 10.84. For the reasons already set out above, lit footway provision is not considered to be necessary, feasible, or indeed desirable in terms of local character. Having regard to the

fall-back position there is nothing to suggest the proposal would overwhelm the capacity of local infrastructure, including drainage, and Yorkshire Water have no objection.

Railway safety

- 10.85. The site is located adjacent to a railway embankment, sufficiently close to it that Network Rail is a statutory consultee. In response to consultation, they confirm they have no objection in principle subject to conditions (asset protection during construction and implementation of drainage, boundary treatment and lighting to ensure the safety of railway users).

Vulnerable residents might be displaced from [cheaper] homes and concern over where displaced residents would be re-homed

- 10.86. Certificate of Ownership A was submitted, declaring that the applicant is sole owner of the site, and the agent confirms that 8 caravans are currently occupied on a six-month lease. An objector is concerned about the loss of cheaper housing and that these occupants may be rendered homeless.
- 10.87. The concern is not unique to the situation where a caravan occupied as a dwelling under a short lease is proposed for removal; it would apply equally to individuals renting a house proposed for demolition and redevelopment. Furthermore, the caravans do not fall within the definition of affordable housing under Annex 2 of the Framework.
- 10.88. Nevertheless, the rent is likely to be less than what is charged for other types of market housing and the caravans would be removed. Moreover, for the viability reasons set out above, the development would not deliver any affordable housing on site. However, on balance, it is considered that the overall housing delivery, socio-economic, and heritage benefits of the scheme would outweigh the loss of the caravans and the accommodation they provide.
- 10.89. Due regard must be had to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. However, there is no evidence to suggest that current site occupiers share a protected characteristic for the purposes of the PSED. Furthermore, class is not currently a protected characteristic if that were the relevant concern. Therefore, it does not follow from the PSED that planning permission should be refused.
- 10.90. The site does not benefit from planning permission as a park home site, simply a certificate of lawfulness to confirm it is immune from enforcement action, and it is understood that the site has a license for holiday use. It is not therefore certain if the site is a 'protected site' under the Mobile Homes Act 2013. Renters have different rights depending on whether they live on a protected site, the terms of any written agreement, and whether they have a tenancy as a dwellinghouse. However, this largely rests as a private matter between landlord and tenant and is not a determinative material consideration.

Sustainable construction

- 10.91. Together, Local Plan Policies ENV3 and ENV8 set out requirements for development to be sustainably designed and take all reasonable opportunities to reduce the use of resources and minimise waste, and where possible to generate power through solar or other means. The application is supported by a Sustainability Statement, which suggests materials would be locally sourced and local contractors and labour would be used. It highlights that all dwellings would have a south-facing aspect, thereby reducing the need for artificial light.

This would also maximise solar gain and reduce heating costs, and roofs would have the potential to accommodate solar photovoltaic panels.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The starting point for the determination of the application is the development plan. The application must be determined in accordance with it unless material considerations indicate otherwise. Because the site does not fall within or adjacent to the main built-up area and is located outside of the GNDP settlement boundary and is unallocated for housing development, the proposal would be contrary to the spatial approach to housing delivery set out in the development plan. The proposal as a whole does not fall within the list of exceptions to the general approach to limit housing in the countryside. Therefore, there would be conflict with Local Plan Policy SP4 and GNDP Policy H1.
- 11.2. Subject to conditions, the proposal would not harm the local landscape, living conditions of existing or future occupants, protected species, and highway or railway safety. Nor is there any evidence the proposal would exceed the capacity of local infrastructure, and the density and housing mix would be appropriate having regard to the specific circumstances and other local plan objectives. The site layout would be acceptable in relation to designing out crime. Evidence that the proposal would not be viable with affordable housing provision has been independently evaluated, and the Council's appointed MRICS Valuer agrees. These are all neutral factors in the planning balance.
- 11.3. In its favour the proposal would deliver significant benefits through the re-use and restoration of the sawmill NDHA which is a brownfield site, and it would deliver improvements to the appearance of the site. There would also be socio-economic benefits flowing from increased housing delivery. Furthermore, a fall-back position is established for the siting of permanent residential caravans. Further still, the scheme would provide 14 dwellings which would be flood resilient and well insulated, replacing residential caravans which are neither. Cumulatively, these considerations attract significant weight. In isolation, the weight attached to these benefits would outweigh the conflict with the spatial strategy.
- 11.4. However, the proposal is partly located within FZ3 and the EA object. Officers cannot be certain if the scheme would be located partly within FZ3b, in which case permission should not be granted. Even if none of the site were within FZ3b, the required sequential test and exception tests are not passed. Whilst the evidence demonstrates that the proposed dwellings would be sufficiently flood resilient, it has not been demonstrated that they would be safe for their lifetime, or that the proposal would not increase the risk of flooding elsewhere. Because the site would be located in an area with a high probability of flooding, potentially within FZ3b, the proposal would be contrary to Local Plan Policy ENV6 and the policies of the Framework, and the EA have not been able to withdraw their objection. This attracts very significant weight against the proposal.
- 11.5. There are clearly a number of policies and considerations to be considered which pull in opposite directions. However, in the overall planning balance the significant weight attached to the benefits does not outweigh the very significant weight that should be given to flood risk considerations and the identified conflict with the development plan overall. Refusal is therefore recommended on flood risk grounds.

12.0 RECOMMENDATION

- 12.1. That planning permission be REFUSED for the following reason:
1. Having considered the submitted evidence, including the Flood Risk Assessment and topographical survey, according to the latest Environment Agency Flood Map (2023) part of the site would be located in an area with a high probability of flooding,

potentially within FZ3b where development should not be permitted. The sequential and exception tests have not been passed and the Council cannot be certain that the proposal would not increase the risk of flooding elsewhere and be safe for the lifetime of the development. Planning permission has been refused twice before and, having considered the submitted evidence, the EA have not been able to withdraw their objection to the scheme. Therefore, the proposal would be contrary to Local Plan Policy ENV6 and the policies of the Framework. In the overall planning balance, the significant weight given to the benefits of the scheme do not outweigh the very substantial weight given to the flood risk considerations and resultant conflict with the development plan.

Target Determination Date: 30.03.2024

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