

North Yorkshire Council

Community Development Services

Skipton and Ripon Area Planning Committee

2nd September 2024

ZC24/01356/FUL - CREATION OF WILDLIFE PONDS WITHIN AGRICULTURAL PASTURE, AT BRIM HOUSE FARM, EAVESTONE, RIPON, NORTH YORKSHIRE, HG4 3HB ON BEHALF OF MR ALEX WIBBERLEY

Report of the Assistant Director – Planning

1.0 Purpose of the Report

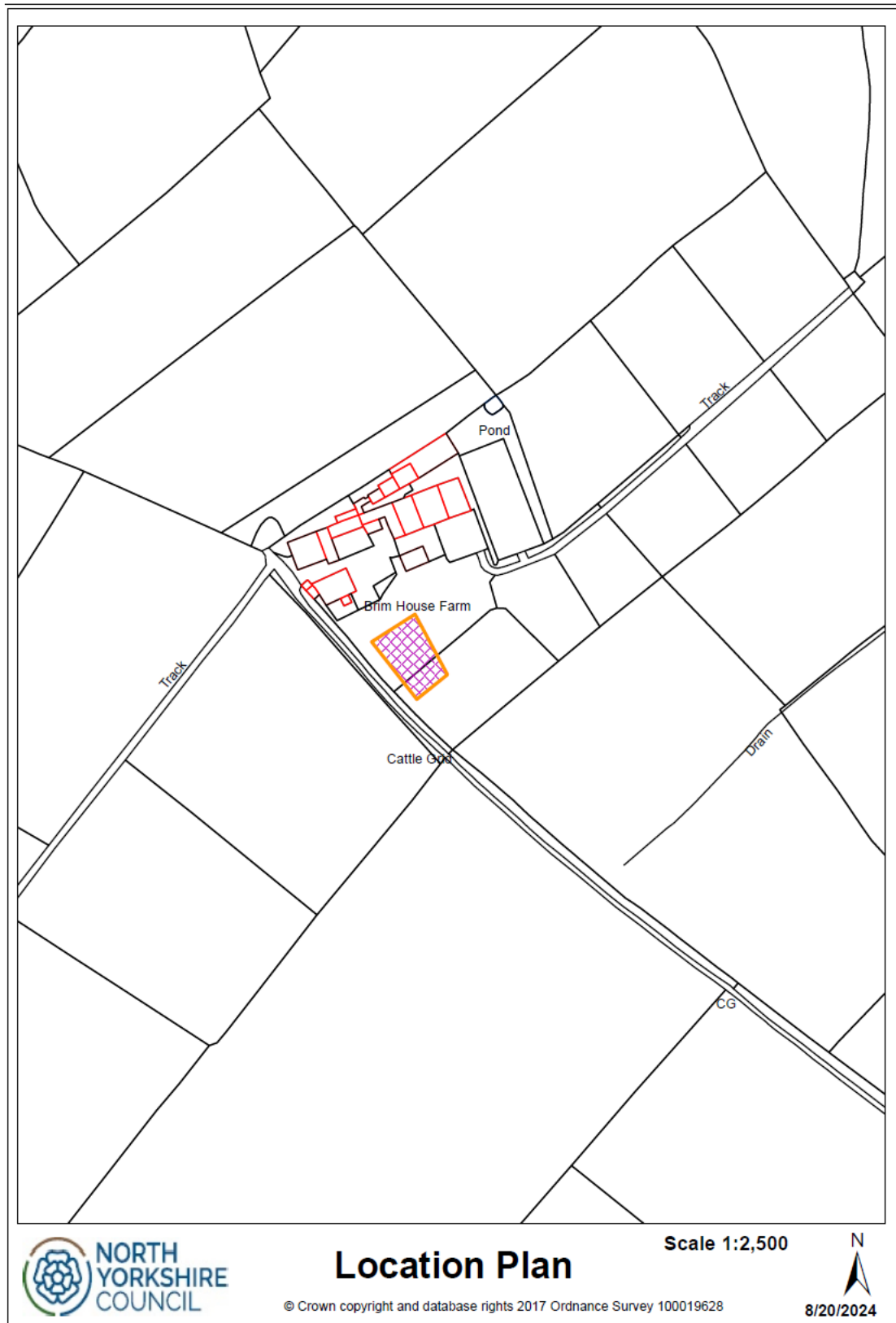
- 1.1 To determine a planning application for the creation of Wildlife Ponds within agricultural pasture at Brim House Farm, Eavestone on behalf of Assistant Director – Planning
- 1.2 This application is brought to the Planning Committee because the agent is the Nidderdale National Landscape who are part of North Yorkshire Council. It is therefore necessary that the application is considered by the Area Planning Committee.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to conditions.

- 2.1. The proposal seeks full planning permission for the creation of Wildlife Ponds within agricultural pasture at Brim House Farm, Eavestone
- 2.2. The site is located within the Nidderdale National Landscape. The surrounding area is rural and is characterised by its agricultural and relatively flat and open nature.
- 2.3. The creation of ponds is part of a wetland creation project which is being facilitated by Nidderdale National Landscape and funded by a FIPL (Farming in Protected Landscapes) grant scheme. The objective of the scheme is to create a new wildlife pond with clean water to benefit a range of freshwater plants and animals.
- 2.4. The ponds are considered to be features which will integrate well within the wider rural landscape with the potential to enhance biodiversity. It is considered that the proposed works will comply with Local Plan Policies GS6, NE3, NE4, HP3 and HP4 and paragraph 180 (d) of the National Planning Policy Framework.

2.5. As such the proposal accords with policy in the National Planning Policy Framework and the policies of the Development Plan.



3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found [here:-](#)
- 3.2. There are no relevant applications or appeals in the site history.

4.0 Site and Surroundings

- 4.1. The application relates to land at Brim House Farm, which is located approximately 600 metres west of Eavestone and within the Nidderdale National Landscape. The ponds will be sited in fields south of the main farm buildings.
- 4.2. The surrounding area is rural and is characterised by agricultural fields creating large areas of green open space. A public right of way runs along the same field where the ponds are to be located. The ponds will be a sufficient distance away so will not conflict with the footpath.

5.0 Description of Proposal

- 5.1. The proposal seeks full planning consent for two ponds with associated spoil and a trench/dam. They will be located in a field south of the main farm.

6.0 Planning Policy and Guidance

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

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
 - Harrogate District Local Plan 2014 – 2035, adopted March 2020.
 - Minerals and Waste Joint Plan (Adopted 2022)

Emerging Development Plan – Material Consideration

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

- The North Yorkshire Local Plan. No weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

6.4. Relevant guidance for this application is:

- National Planning Policy Framework 2023
- National Planning Practice Guidance
- Upper River Skell Valley Landscape Character Assessment

7.0 Consultation Responses

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

7.2. **Natural England** - No objection.

7.3. **NYC Ecologist** - No objection. Conditions recommended.

Local Representations

7.4. No public representation has been received at the time of writing.

8.0 Environment Impact Assessment (EIA)

8.1. The development proposed falls within the description at 10 (b) of Schedule 2 to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. In the opinion of the Local Planning Authority, having taken into account the criteria in Schedule 3 to the above Regulations, the proposal would not be likely to have significant effect on the environment for the following reasons: Although located within a designated sensitive area (the Nidderdale National Landscape, formerly known as the Nidderdale Area of Outstanding Natural Beauty, AONB), there would be no likely significant impacts in terms of noise, waste, contamination, flooding, archaeology, ecology, heritage issues or complex construction. Given the nature, scale and location of the proposal, the impacts of the development are unlikely to be significant. The Proposed Development is therefore not EIA development.

9.0 Main Issues

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

- Siting and design
- Biodiversity
- Impact on amenity

10.0 ASSESSMENT

Siting and design

- 10.1. Section 245 of the Levelling-up and Regeneration Act 2023 has amended the previous duty of regard under section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act) to create a new duty for relevant authorities in AONBs (National Landscapes). The new duty requires that in exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.
- 10.2. The Harrogate District Local Plan 2014-2035 was adopted by the Council on 4 March 2020. The Inspectors' Report concluded that, with the recommended main modifications which are set out in his report, that the Harrogate District Local Plan satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) and meets the criteria for soundness in the NPPF. All the policies in the Local Plan can therefore be given full weight.
- 10.3. Policy GS6 of the Local Plan states that states that development should be supported if they do not detract from the natural beauty and special qualities of the AONB and its setting.
- 10.4. Policy HP3 of the Local Plan states that development should incorporate high quality design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments.
- 10.5. Policy NE4 of the Local Plan states that proposals that will protect, enhance, or restore the landscape character of the Harrogate district. This is achieved by requiring that development has a particular regard to maintaining the aesthetic and biodiversity of the natural heritage within the landscape such as ponds.
- 10.6. The proposal seeks the creation of wildlife ponds within an agricultural pasture at Brim House Farm. The ponds will be sited in a field south of the main farm.
- 10.7. The main pond will have a surface area of 101m². It will be designed for wildlife, retaining up to 1 metre deep in the centre with shallow margins that can be colonised or planted by native aquatic plant species found in the local area.

- 10.8. The filtration pond will be sited to the west of the main pond. It is a linear pond which will have a surface area of 54m². The aim of this pond is to intercept water and filter it before it enters the main pond.
- 10.9. Topsoil will be stripped from the area of the proposed ponds and banks and stacked to the sides of the working area. Good clay extracted from the footprint of the pond will be compacted in layers to form a watertight curtain trench, building up a 30cm bank.
- 10.10. The proposed ponds will be sited at the west side of the field approximately 10 metres away from the track which runs next to the field. The proposal makes effective use of space as the filtration pond will catch water coming off higher input farmland and the vehicular track and reduce the risk of sediment entering the main pond.
- 10.11. A Cross Section was submitted showing the existing ground level, new ground level and water level. It shows that the depth of each pond will be approximately 1 metre. There will therefore be minimal excavations. In consideration of the above, the design is considered acceptable for its intended use and therefore complies with Local Plan Policies HP3 and GS6.
- 10.12. The site is located within Landscape Character Assessment Area 31: Upper River Skell Valley. The assessment for this area states that development requiring earthworks that will impact upon the landform should be avoided. The earthworks required for the proposed works are only 1 metre deep so are considered minimal so will not impact on landform. The ponds will not be visible from any long-range views and are considered acceptable within the existing sites character and use. The scheme therefore complies with Local Plan Policy NE4.
- 10.13. Overall, the design and siting of the scheme is considered acceptable and would not result in harm to the character or appearance of the surrounding landscape. As such, the proposal accords with policies GS6, HP3 and NE4 of the Local Plan. The proposal is also consistent with the duty at Section 245 of the Levelling-up and Regeneration Act 2023 requiring relevant authorities to seek to further the purpose of conserving and enhancing the natural beauty of areas of outstanding natural beauty.

Biodiversity

- 10.14. Local Plan Policy NE3 seeks to protect and enhance feature of ecological interest with the provision of net gains in biodiversity supported.

- 10.15. Paragraph 186 d) of the National Planning Policy Framework states that “development whose primary objective is to conserve or enhance biodiversity should be supported”.
- 10.16. An Ecology Report, Biodiversity Net Gain metric and a Habitat Management and Monitoring Plan have been submitted with the application. The Ecology report states that the site currently comprises of modified grassland in moderate condition. The area is not a priority habitat and no areas of priority habitat or species-rich vegetation would be lost as a result of this scheme. It is highly unlikely that amphibians or other protected species will be present in the works area.
- 10.17. The Ecology report concludes that the ponds aim to create a clean water habitat for local wildlife, extending and connecting habitats across the Nidderdale National Landscape as part of the Wetland Creation Scheme. Habitat around the pond margins will also be recreated as a more species rich grassland. Non-priority ponds are a higher distinctiveness habitat than the existing grassland on site. The scheme will have a positive impact on local biodiversity.
- 10.18. The submitted Biodiversity Net Gain metric shows that existing habitat is modified grassland, and that the pond creation can give rise to an increase of habitat units by 49.66%.
- 10.19. The Habitat Management and Monitoring Plan outlines how the site will create/enhance habitats for Biodiversity Net Gain and manage and monitor it for 30 years. The implementation of this plan will be conditioned to ensure the development delivers a biodiversity net gain on site.
- 10.20. The proposed works are considered to comply with Local Plan Policy NE3, paragraph 186 d) of the National Planning Policy Framework and Schedule 7A of the Town and Country Planning Act 1990.

Impact on amenity

- 10.21. Local Plan Policy HP4 ensures that development will not result in significant adverse impacts on the amenity of occupiers and neighbours. This includes overlooking, overshadowing and overbearing, as well as noise, vibration and fumes.

10.22. The ponds are sited in a field at Brim House Farm. Due to the isolated nature of the site, there are no amenity concerns. The proposed works therefore comply with Local Plan Policy HP4.

11.0. **PLANNING BALANCE AND CONCLUSION**

- 11.1. The design, siting and principal of the proposed works are considered acceptable. They will not detrimentally impact the locality or wider character of the surrounding Nidderdale National landscape. The proposal is in accordance with Local Plan Policies GS6, HP3 and NE4. It is considered that the development would have key ecological benefits due to it creating a habitat for local wildlife. This accords with paragraph 186 d) of the NPPF and Policy NE3 of the Local Plan.
- 11.2. The proposal will not significantly harm the amenities of neighbouring dwellings. The proposal is in line with Local Plan Policy HP4.
- 11.3. As such the proposal accords with policy in the National Planning Policy Framework and the policies of the Development Plan. The proposal is also consistent with the duty at Section 245 of the Levelling-up and Regeneration Act 2023 requiring relevant authorities to seek to further the purpose of conserving and enhancing the natural beauty of areas of outstanding natural beauty.

12.0 **RECOMMENDATION**

12.1 That planning permission be GRANTED subject to conditions listed below

Recommended conditions:

Condition 1 Time Limit

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

Reason; To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.

Condition 2 Approved Plans

The development hereby permitted shall be carried out in strict accordance with the following drawings:

- .Site Plan Brim House Farm
- .Cross Section Brim House Farm

.Location Plan Brim House Farm

Received by the Local Planning Authority on 24th April 2024

Reason; In order to ensure compliance with the approved drawings.

Condition 3 Protection of species

No works may commence on site during the ground bird nesting season (March – August, inclusive) to ensure that potential nests/chicks/breeding pairs are not disturbed by the works. Unless works are to be undertaken after 31st August, a suitably qualified ecologist should survey the site and surrounding area to ensure it is clear of ground nesting birds, which will allow for works to continue prior to this time.

Reason; To safeguard protected species during the construction phase.

Condition 4 Biodiversity Net Gain

The created and/or enhanced habitat specified in the approved Habitat Management and Monitoring Plan shall be managed, maintained and monitored in accordance with the approved 'Habitat Management and Monitoring Plan Version 1.0 dated 17.06.2024' for 30 years upon completion of the creation.

Reason; To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Local Plan Policy NE3.

Target Determination Date: 6th September 2024

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