

North Yorkshire Council

Community Development Services Thirsk and Malton Area Constituency Committee

24 October 2024

ZB23/02394/OUT - Outline application for the erection of 20 no. dwellings (with all matters reserved except access, landscaping and layout) [Use Class C3] including demolition of existing barn and associated infrastructure

at land to the south of Prospect Cottages, Husthwaite, North Yorkshire

On behalf of C. Nicholson, R, A, C, J Taylor

Report of the Assistant Director Planning– Community Development Services

1.0 PURPOSE OF THE REPORT

- 1.1 To determine an outline planning application for 20 dwellings on land to the south of Prospect Cottages, Husthwaite.
- 1.2 The application is considered appropriate to be determined by the Planning Committee due to the proposal raising significant planning issues, level of interest in the proposal and the complex planning matters involved, as considered by the Director of Community Development,

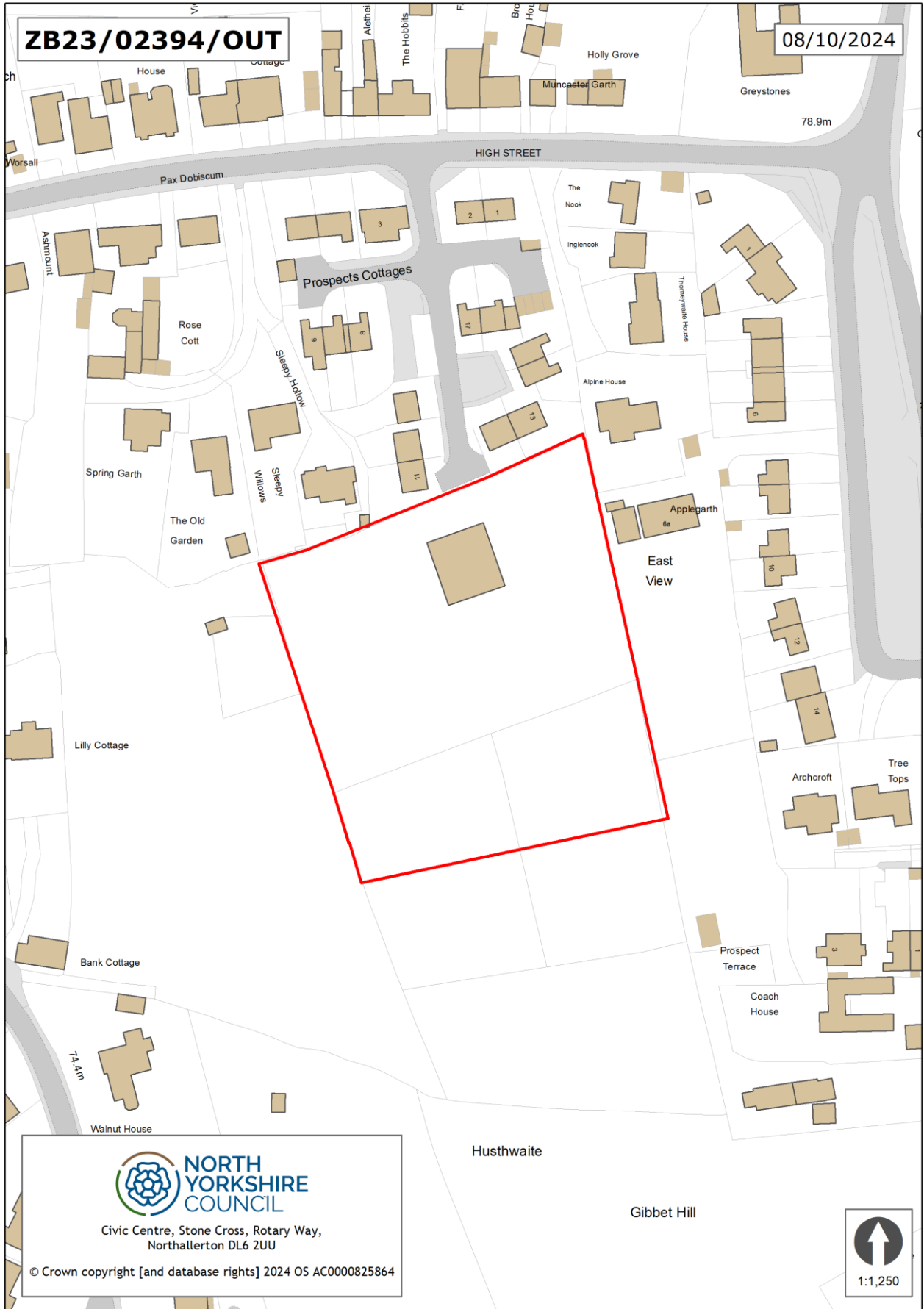
2.0 SUMMARY

RECOMMENDATION: That planning permission be **REFUSED**

- 2.1 The application is in outline for demolition of the existing barn and construction of 20 dwellings. The proposal includes the provision of 7 affordable houses (35%), public open space and provision for a net gain for biodiversity. The matters for consideration at this stage are access, landscaping and layout. Access is proposed to be taken through Prospect Cottages to the north.
- 2.2 The application site is located to the eastern side of the settlement of Husthwaite, west of East View and south of the High Street. The site is accessed via Prospect Cottages, a 1970s development. The site is currently in agricultural use with an agricultural building sited at the northern end of the site. To the north and east of the site there is residential development. To the west is a further open field with The Nookin beyond and to the south further agricultural fields. The site is bordered to the east and west by mature hedgerow. As the site splits an existing field there is currently no southern boundary demarcation. The site is divided by post and tape style electric fencing. The land rises up from north to south and west to east.
- 2.3 The application site was allocated for housing development in the previous Local Development Framework. Outline planning permission for 20 dwellings was granted in early 2015. The Reserved Matters were approved in 2019. In February 2022 the new Local Plan was adopted. This site was not carried forward as an allocation and the previously granted permissions have now expired.

ZB23/02394/OUT

08/10/2024



**NORTH YORKSHIRE COUNCIL**
Civic Centre, Stone Cross, Rotary Way,
Northallerton DL6 2UU
© Crown copyright [and database rights] 2024 OS AC0000825864


1:1,250

3.0 PRELIMINARY MATTERS

3.1 Access to the case file on Public Access can be found here:- [Planning Documents](#)

3.2 There are 7 relevant planning applications for this application which are detailed below.

23/00319/OUT - Outline application with some matters reserved for 4no. dwellings – REFUSED on 06.04.2023.

22/01469/OUT - Outline application for 22 dwellings with all matters reserved except access. - REFUSED on 24.11.2022, DISMISSED at appeal on 17.08.2023.

18/02100/REM - Application for approval of reserved matters (access, appearance, landscaping, layout & scale) following outline approval 14/02294/OUT for the development of 20 houses – GRANTED on 08.04.2019.

14/02294/OUT - Outline application for development of 20no dwellinghouses – GRANTED on 05.10.2015.

79/1648/OUT - Outline Application for the Construction of an Agricultural Engineering Workshop and Two Dwellings – REFUSED on 13.11.1979.

79/1246/OUT - Outline Application for the Construction of a Bulk Potato Storage Building – GRANTED on 28.06.1979.

79/1636/OUT - Outline Application for the Construction Of 2 Detached Dwellinghouses with Domestic Double Garages – REFUSED on 26.07.1979.

4.0 SITE AND SURROUNDINGS

4.1 The application site measures 8,441sqm and is located to the eastern side of the settlement of Hushwaite, west of East View and south of the High Street. The site is accessed via Prospect Cottages, a 1970s development. The site is currently in agricultural use with an agricultural building sited at the northern end of the site. To the north and east of the site there is residential development. To the west is a further open field with The Nookin beyond and to the south further agricultural fields. The site is bordered to the east and west by mature hedgerow. As the site splits an existing field there is currently no southern boundary demarcation. The site is divided by post and tape style electric fencing. The land rises up from north to south and west to east.

4.2 Hushwaite is a small rural village with a long linear form and a historic core centred on the 12th century Church of St Nicholas. To the south of the church is a small village green and an additional important village street, The Nookin. Hushwaite Conservation Area boundary tightly relates to the historic limits of the village and includes later 19th century development along The Nookin. The application site does not fall within the Conservation Area which borders the site at the northwestern corner. The 1970s development at Prospect Cottages is also excluded from the Conservation Area.

5.0 DESCRIPTION OF PROPOSAL

5.1 This application seeks outline planning permission for 20 dwellings with access, landscaping and layout sought to be considered. Two of the units are proposed as self-build and seven of the dwellings are proposed as affordable which equates to 35%.

- 5.2 The proposed layout shows the access road joining from Prospect Cottages to the north. To the west of the access road is an area for public open space and the Local Equipped Area for Play (LEAP). The proposed dwellings are set initially in a linear pattern either side of the north to south access road. Four further dwellings are sited facing the western internal shared driveway. To the south of the site a green buffer is proposed. Parking for each dwelling is shown, as well as visitor parking. Each unit is also shown with an outdoor amenity space. The layout plan shows a housing mix table which forms part of the justification for the development. Similarly, landscaping is being considered as this also forms part of the justification/mitigation for the development.
- 5.3 The site was previously allocated in the LDF under EH5. Although outline planning permission was gained in 2014 and reserved matters in 2018 the permission was not implemented and has now expired. The allocation was not carried forward into the new Local Plan which was adopted in February 2022 and does not form part of the current Housing Land Supply figures. An application for 22 dwellings was refused in November 2022 and was Dismissed by the Planning Inspectorate on appeal in August 2023.

6.0 PLANNING POLICY AND GUIDANCE

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

Adopted Development Plan

- 6.2 The Adopted Development Plan for this site is the Hambleton Local Plan (adopted February 2022).

Emerging Development Plan – Material Consideration

- 6.3 The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

- 6.4 Relevant guidance for this application is:
- National Planning Policy Framework
 - National Planning Practice Guidance

7.0 CONSULTATION RESPONSES

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

- 7.2 **Parish Council:** Husthwaite Parish Council wish to see the application refused and raise the following matters:

- The Inspector dismissed the previous application based on the location of the development site and not the layout as contended by the applicant. The reduction in the number of dwellings and enlargement of the green space does not address this.
- There is insufficient parking for the number of dwellings on Prospect Cottages (6 spaces for 14 dwellings) forcing residents to park on the road. This will impact

access for the new development. Additional parking should be provided to ensure this is addressed.

- Impact on peak time traffic
- This development will put a strain on local services and the social cohesion of the village. There is no shop, post office, doctors, local employment or reliable transport connections.
- There are undergrounds springs and watercourses in this area.
- Would request a construction management plan be provided if permission is granted to control site access, on site compounds, parking, materials storage, HGV routes, hours of operation and discharge of surface water.

7.3 Conservation Officer: The Conservation Officers comments are summarised as follows:

The implications of development affecting the setting of heritage assets is to be considered on a case-by-case basis, Historic England 2017. Huthwaite is a small rural village its character is derived from a linear setting running on an east to west axis. The historic core is centred on the 12th century Church of St Nicholas which is Grade II* listed. The boundary of the Conservation Area relates to the historic limits of the village and includes later 19th century development along The Nookin.

Although the village has succumbed to areas of later 20th century development and selective infill, the historic limit of the village is relatively unchanged. There continues to be a clear relationship with the adjacent open land. This places and emphasis on the relationship between the historic buildings, adjacent fields and wider rural landscape which collectively adds to the setting and contributes greatly to the significance of the conservation area.

The infill development associated with Prospect Cottages cul de sac is an anomaly within the established linear pattern of the settlement and although this is recognised within the village this does not mean to say it should be replicated or indeed the cul de sac extended into an open field which sits quietly within the village. The continuation of this cul de sac would harm the character of the village as the open land is considered to contribute positively to the conservation area. The view from Prospect Cottages identifies the established rural character and therefore further supports the understanding of the linear form of the village via the absence of modern development.

A planning application was dismissed by the Planning Inspectorate on the 17 August 2023 for the harm which would be afforded to the conservation area and conflict with LP Policy HG5. As the proposals were deemed to have a detrimental impact on the character and appearance of a village which in turn had a loss of countryside that made a significant contribution to the character or setting of that part of the village. The Inspector also considered the proposal would create a negative impact on the contribution which the site made to the significance of the conservation area. The scale of harm was given less than substantial.

Although there has been a shift in the opportunities created for others by identifying public benefits it is considered that the principle of harm remains. Moreover, it was further considered that the proposal does not comply with the requirements of the NPPF in terms of conserving heritage assets in a manner appropriate to their significance, ensuring that new developments add to the overall quality of an area, and are sympathetic to local character.

To conclude the proposed development would result in less than substantial harm to the setting of the Hushwaite Conservation Area.

- 7.4 **Environmental Health Officer:** No objection subject to imposition of a condition relating to construction management.
- 7.5 **Environmental Health Officer (Land Contamination):** The site is located in a medium risk area for radon. This can be reduced to low risk through the incorporation of protective measures in accordance with BRE 211 Radon: Guidance on protective measures for new buildings. A condition is recommended to cover any unexpected contamination found during construction.
- 7.6 **Heritage Services:** The Councils Principal Archaeologist broadly agrees with the submitted report. The overall conclusion is that the site has a generally low archaeological potential with the majority of features identified being medieval or post-medieval furrow and drains. During the compilation of the Heritage Statement the consultants identified a small circular mound, surrounded by a ditch in the north-west corner of the site. The Councils Archaeologist agrees that it is more likely that the feature is a lunge ring or similar for the exercising of horses but that the feature should be subject of further archaeological recording secured by condition.
- 7.7 **Historic England:** No Comments, refers to the advice of the Local Conservation Officer.
- 7.8 **Highways Authority:** No objections subject to imposition of conditions relating to surface water, detailed plans for roads and footways, minimum construction standards for use, details of access turning and parking and a Construction Management Plan for small sites.
- 7.9 **Housing Officer:** In summary the application provides one additional affordable house above the requirement of the Local Plan. The tenure of the proposed affordable units is acceptable. Additional information regarding space standards, transfer prices and energy efficiency is provided. On further consultation local need data collected in 2021 was provided indicating that 3 units of affordable housing are required in Hushwaite.
- 7.10 **RAF Ministry of Defence, Defence Infrastructure Organisation Safeguarding Team:** No objection.
- 7.11 **Yorkshire Water:** No objections subject to condition requiring that the development is carried out in accordance with the submitted drainage strategy.

Local Representations

- 7.12 38 representations have been received from 34 members of the public. Of these representations 14 are in support and 24 (from 20 members of the public) are objecting. A summary of the comments is provided below, however, please see website for full comments.
- 7.13 Support:
- Would like to move to/back to the village
 - Would regenerate the village, support local services and provide affordable housing, self build, and green space
 - House prices are high in the area
 - Opportunity for village to grow in a sustainable way
 - Previously allocated site
 - Drainage solutions are available
 - Removes eyesore barn

7.14 Objections:

- Replicates the previous application which was refused and dismissed at appeal. The reasons for refusal (impact on the Conservation Area, character, setting, form and linear layout of the village) are still valid
- The changes to the proposal are cosmetic and do not address the fundamental problems of too large development in the wrong place
- Brownfield sites should be prioritised
- Husthwaite has limited services and public transport
- Increased traffic
- High Street is clogged with parked vehicles
- Impact on wildlife
- The village is in the process of drawing up a neighbourhood plan
- Out of scale with the village
- The application site is crossed by underground watercourses and springs and flooding is prevalent on neighbouring land. The drainage report is a desktop study only and does not address the impact of disturbing the springs
- The construction of one new dwelling near this site resulted in flooding to neighbouring properties
- The Council has an almost 10-year land supply
- Would cause irreversible damage to the village and Conservation Area
- An embargo should be enforced against future applications.
- Loss of hedgerow and trees
- Provide very concise comments
- Broadacres provide affordable houses in the area for both rent and purchase
- A 25+ houses have been built in the village in the last 10 years, 11 in the last 3 years alone
- Will result in nitrate pollution
- Scheme not required as funding has been granted for 700 new homes on brownfield sites across York and North Yorkshire.
- Are there sufficient facilities in the village for children of every age
- Existing sewerage system is at capacity
- Desire for profit needs to be balanced against the need to protect heritage
- The alterations to the layout to make the view up the hill more pleasing will not achieve the aim
- Emergency vehicles and bin collections will struggle to access the site
- This is the first phase of wider development
- No evidence that the proposal is based on any element of local need or demand

8.0 ENVIRONMENT IMPACT ASSESSMENT (EIA)

8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 MAIN ISSUES

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

- Principle of development
- Affordable housing and housing mix
- Heritage and impact on the character of the area
- Amenity
- Drainage and Flood Risk
- Highways safety

- Biodiversity

10.0 ASSESSMENT

Principle of Development

- 10.1 The application site was allocated for housing development in the previous Local Development Framework. Outline permission for 20 dwellings was granted in early 2015. The Reserved Matters were approved in 2019. In February 2022 the new Local Hambleton Plan was adopted. This site was not carried forward as an allocation and the previously granted permissions which were never implemented have now expired.
- 10.2 The LDF 2010 allocations were based on evidence gathered some 17 years ago between 2005 and 2009 when the final document was submitted for examination. This was a completely different policy environment, pre National Planning Policy Framework and later in the period when the District was working hard to maintain an adequate housing supply. The principle of development at this site must therefore rely on the policies of the new Local Plan and no weight can be given to the previous LDF allocation and permissions. The site does not currently contribute to the Councils Housing Lands supply which is currently in excess of 8 years.
- 10.3 The purpose of Local Plan S1 is to set out the central role that sustainable development plays in meeting the growth requirements for Hambleton, and to set out the ways and the expectations in which the Council will seek to achieve sustainable development.
- 10.4 Policy S2 sets out the Council's housing requirement and it identifies that the housing figures are based on existing commitments and sites allocated for development in this local plan. Housing development that comes forward during the plan period will be an important additional supply of homes and will be supported as set out in policies including HG5 : Windfall Housing Development.
- 10.5 Policy S3 sets out the settlement hierarchy. Husthwaite is a service village within the Easingwold sub area. The position of a settlement within the hierarchy is based on the range and type of services and facilities available within the settlement or in its immediate vicinity and the availability of public transport services. Development will be supported in settlements in the hierarchy that is proportionate to the size of the settlement and it's level in the hierarchy.
- 10.6 Policy S5 states that the built form is defined as the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them. Land outside of this built form is considered to be open countryside. In this case the site is not considered to be within the built form of the settlement. It can, however, be considered to be adjacent to it.
- 10.7 Policy HG5 states that adjacent to the built form of a defined village housing development will be supported where a number of criteria are met.
- 10.8 Criterion a. requires that a sequential approach to development be taken which prioritises previously developed land over undeveloped land. The applicant has not identified any previously developed sites within the village. The Council is also not aware of any relevant sites and therefore it is accepted that criterion a., is satisfied. The application site itself does feature one building, however, this is considered to be agricultural and therefore does not meet the definition of previously developed.

Affordable Housing and Mix

- 10.9 Criterion b. requires a housing mix in accordance with the Councils up to date evidence. Local Plan Policy HG3 also states that the council will seek provision of 30% affordable

dwellings on all housing developments. The application is in outline, however, as the proposal includes a layout drawing which provides a mix schedule which is also discussed in the submitted Public Benefits Statement this will be considered as part of the proposal.

- 10.10 The proposed mix is shown in the table below against the target from the Housing SPD. The table shows that seven units of affordable housing are proposed. The requirement for affordable housing for this development would be 30% which equates to six dwellings. The proposal therefore provides one additional unit above the Local Plan requirement. This equates to a provision of 35%. In addition to this the proposal includes two plots for self-build units. These are marked as 3-bedroom houses at plots 7 and 8. These would need to be secured by legal agreement if given weight in the planning balance.
- 10.11 The table shows an over provision of 4+bedroom market dwellings and an under provision of 1 bedroom market dwellings. Given the numbers involved the number of 2 and 3-bedroom properties for market sale is broadly in line with the target. Similarly, although the proposed mix for affordable housing does not exactly meet the target percentages outlined in the Housing SPD the Housing Officer has confirmed that more 1 and 2 bedroomed dwellings are needed in the Easingwold Hinterland than 3+ bedroomed dwellings. Whilst ideally one 3 bedroomed dwelling could have been provided the proposed mix is considered to be acceptable.

House Size	Market No of Units	Market Housing Proposed	Market Housing Target	Affordable No of Units	Affordable Housing Proposed	Affordable Housing Target
1 bedroom	0	0	5-10%	2	28%	20-25%
2 bedrooms	6	46%	40-45%	5	71%	50-60%
3 bedrooms	5	38%%	40-45%	0	0	10-20%
4+ bedrooms	2	15%	0-10%	0	0	0-5%

Heritage and impact on the character of the area

- 10.12 Criterion c. requires that development, both individually and cumulatively, be commensurate with the size, scale, role and function of the settlement. Hustwaite is defined as a Service Village within Local Plan Policy S3 which provides the strategy for the spatial distribution of growth for the area. The site lies adjacent to the built form of the village.
- 10.13 In the previous application the inspector considered that: “Neither LP policy S3, nor policy HG5 provide any indication of the number of new dwellings anticipated to be delivered within or adjacent to each Service or Secondary Village. Therefore, a judgement is required in each case, based on the size and character of the village affected, along with the concentration of services therein. Whilst I have carefully considered the Council’s concerns with regards to the scale of the proposal, they do not identify any direct impacts on the infrastructure of the village or the available level of local services and facilities therein, and no evidence has been provided to this effect. Whilst I note some concerns in representations from the public, based on the evidence before me, I have no reason to conclude that the proposed development represents a level of growth that would not be commensurate to the size, scale, role and function of the village. To conclude on this first main issue, the delivery of 22 dwellings within a village of this size would not materially harm the size, scale, role and function of the settlement. As such, the proposal would not conflict with Policy HG5 criteria c)”.

- 10.14 Criteria d. and e. relate to layout, historic form and character of the settlement and surrounding countryside. Local Plan Policy E1: Design states that all development should be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and helping to create a strong sense of place. Policy E7: Hambleton's Landscapes states that the Council will protect and enhance the distinctive character and townscapes of settlements in the district. This will be achieved by ensuring that development is appropriate to, and integrates with, the character and townscape of the surrounding area.
- 10.15 As this section also relates to Heritage matters the relevant additional policy is set out below.
- 10.16 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.
- 10.17 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to have special regard to the desirability of preserving or enhancing the character or appearance of the Hushwaite Conservation Area.
- 10.18 Paragraph 201 of the National Planning Policy Framework states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 10.19 Paragraph 203 of the National Planning Policy Framework states that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 10.20 Paragraph 205 of the National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.21 Paragraph 206 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 10.22 Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.23 Local Plan Policy E5 states that where a heritage asset is identified, a proposal will be required to assess the potential for adverse impacts on the significance of the historic environment. Where investigations show that impacts on heritage assets or their settings, whether designated or not, are possible, a heritage statement will be required. The heritage

statement must be proportionate to the asset's importance and contain sufficient detail to understand the potential impact of the proposal on their significance.

- 10.24 A proposal will only be supported where it ensures that those elements that have been identified as making a positive contribution to the special architectural or historic interest of a conservation area and its setting are preserved and, where appropriate, enhanced, having regard to settlement character assessments and conservation area appraisals;
- 10.25 Any harm to, or loss of, the significance of a designated heritage asset will require clear and convincing justification. Less than substantial harm to the significance of a designated heritage asset will only be supported where the harm is outweighed by the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.26 Husthwaite is a small rural village with a typical North Yorkshire long linear form running on an east to west axis. The historic core is centred on the 12th century Church of St Nicholas. To the south of the church is a small village green and an additional important village street, the Nookin. Husthwaite Conservation Area boundary tightly relates to the historic limits of the village and includes later 19th century development along The Nookin.
- 10.27 The pattern of medieval burgage plots, as articulated by the building lines running back from the street frontages, informed later 17-19th century village development, and remains clearly visible in the character and appearance of the village today. The legibility and demarcation of these individual burgage plots make an important contribution to the significance of the conservation area.
- 10.28 Despite areas of later 20th century development and selective infill, the historic limit of the village is relatively unchanged. Husthwaite continues to enjoy a close relationship with the adjacent open arable and pastoral fields backing onto the burgage plots. This relationship between the historic buildings, adjacent fields and wider rural landscape setting contributes greatly to the significance of the conservation area.
- 10.29 Later in-depth development such as the cul-de-sac at Prospect Cottages fits uneasily into the established linear pattern of the settlement and should not be repeated. The proposed development will continue this in-depth pattern contrary to the established form whilst eroding an open space which contributes positively to the setting and rural character of the settlement and Conservation Area.
- 10.30 During the site visit it was also noted that, due to the topography of the site, views into the site are available from within the Conservation Area at the properties on the northern side of High St, including Grade II listed buildings Laburnam Cottage and Rose Cottage. This view through Prospect Cottages to the open paddocks behind allows an understanding of the linear form of the settlement through the absence of significant in-depth development and strengthens the link between the settlement and the rural landscape. This site therefore is considered to contribute positively to the significance of the Husthwaite Conservation Area.
- 10.31 In addition to the above there is a Public Right of Way to the south of the site. From here a view of the wider landscape to the White Horse as well as down towards the village and Listed Church is available.

10.32 It is considered that this development would result in less than substantial harm to the setting of the Hushwaite Conservation Area. This was supported by the Inspector at the previous appeal where they state: As an open field on rising land that is visible from within the HCA, and forms part of the countryside setting to the village, the appeal site presently makes a positive contribution to the significance of the setting to the HCA.

[...] its open and rural character clearly forms part of the countryside that surrounds the village and contributes to its setting, and its development has the potential to impact on the character and appearance of the village.

[...] Due to the extent of the field to be developed and its visibility on rising land, the proposed development would erode the openness of the appeal site and subsequently the rural setting of this part of the village. As a result, the positive contribution the site presently makes to the open and rural setting of the HCA would be lost. Whilst I have had regard to the potential for additional tree planting as proposed on the indicative landscaping plan, this would not be sufficient in mitigating these impacts.

Further, the location of the development does not respond positively to the historic linear form of the HCA. I appreciate that the site does not fall within the HCA itself and that there are examples of modern development within the village that diverge from the linear form of the HCA, including to the immediate north of the site. I have had regard to the Settlement Character Assessment Study 2018 and note that the site is not identified as an area of sensitivity. However, within this document, the conservation area is recognised as a potential constraint to development and the appeal scheme would be notably at odds with its prevailing linear form. This would be perceptible from within the HCA, when passing along High Street, as well as looking towards the HCA from the footpath to the south. As such, the position and layout of the proposed development would not be commensurate with the prevailing linear form of the village, to the detriment of its character and appearance.

Overall, the proposal would harm the character and appearance of the area. The proposal would conflict with LP Policy HG5, which, amongst other matters, seeks to ensure that proposals have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.

The harm identified would negatively impact on the contribution the appeal site makes to the significance of the HCA. Given the scale and nature of the proposed development, the harm to the significance of the HCA would be 'less than substantial'.

10.33 As previously set out this application is a revision of a previous scheme which was refused and dismissed at appeal. In this application the applicant has included layout and landscaping for consideration to seek to offset the issues raised in the previous application. The proposed layout shows the dwelling set back from the access road with landscaping provided with the aim of creating a view through the site. The proposed development, however, would still be visible through Prospect Cottages. The landscape character would change as a minimum from that of rural agricultural to formalised planting and the access road. It is considered that due to the topography of the site the layout will not mitigate the impact of development.

- 10.34 In addition, it is considered that it is the principle of development that would chiefly result in harm to the Conservation Area and that this could not be mitigated through layout. Development of this in-depth site does not respond to the historic linear character of the village contrary to Policy HG5. This was supported by the Inspector who stated in their report that the location of the development does not respond positively to the historic linear form of the Husthwaite Conservation Area and the appeal scheme would be notably at odds with its prevailing linear form. They further state: This would be perceptible from within the Husthwaite Conservation Area, when passing along High Street, as well as looking towards the Husthwaite Conservation Area from the footpath to the south. As such, the position and layout of the proposed development would not be commensurate with the prevailing linear form of the village, to the detriment of its character and appearance.
- 10.35 Local Plan Policy E5 and Paragraph 208 of the National Planning Policy Framework require that less than substantial harm is balanced against any public benefits. This is discussed in the Planning Balance section below.

Amenity

- 10.36 Local Plan Policy E2 states that all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use.
- 10.37 Layout forms part of this outline application but scale and appearance are reserved matters, although a mix schedule has been provided. The layout plan shows a separation distance of approx. 35m where dwellings face each other. Plots 1-8, 11-15 and 18-20 show acceptable levels of outdoor amenity space. Plots 9,10 are considered small and there is no amenity space shown for plots 16 and 17 (which are 1bed affordable dwellings). The footprints shown demonstrate that the number of dwellings could be provided whilst adhering to the Nationally Described Space Standards albeit in some areas at the expense of outdoor amenity space. This is demonstrated by plot 10 which has a ground floor footprint of approx. 82sqm. It appears that approx. 30-35sqm will be allocated to garaging, however, as noted above the outdoor amenity space for this plot is considered on the smaller end of the scale.

Drainage and Flood Risk

- 10.38 Policy RM1 seeks to ensure that water quality, quantity and foul drainage are appropriately addressed in developments. Foul water will discharge to public foul sewer network. This is acceptable to Yorkshire Water who have not raised capacity as an issue for them.
- 10.39 The purpose of Policy RM2 is to ensure that inappropriate development in areas at risk of flooding is avoided and that the users and residents of development are not put at unnecessary risk in relation to flooding. The site lies within Flood Zone 1 so is considered to be at low risk of flooding.
- 10.40 Policy RM3 sets out the Council's approach with regards to ensuring that surface water and drainage are managed in a sustainable manner. A Flood Risk and Drainage Assessment is submitted with the application detailing how the site will be drained of surface and foul water without increasing flood risk elsewhere.

- 10.41 A Drainage Strategy was submitted in support of the application. The strategy identifies that the site is in Flood Zone 1. The report indicates that percolation testing has found that surface water disposal through infiltration is not a viable option. This is supported by local anecdotal evidence of underground springs in this area. The site is not located in proximity to any suitable waterway and therefore it is considered that surface water drainage should be connected to the mains system.
- 10.42 Yorkshire Water have been consulted and have agreed that the sub-soil conditions do not support the use of soakaways and that the site is remote from any waterways. Yorkshire Water have accepted the proposal to discharge surface water to the surface water sewer in High Street via a storage system with restricted discharge rate of 3.5litres/second.
- 10.43 Foul water would similarly be discharged to the public system in High Street. Further surveys are required to ascertain whether this can be achieved via a gravity connection or whether a pumping station will be required. Given that the application is in outline this level of information is suitable at this stage.
- 10.44 The Lead Local Flood Authority have been consulted and additional information was requested. This has been provided however a final response is awaited from the Lead Local Flood Authority. It is anticipated that final comments will be provided prior to the Committee meeting, however, it should also be noted that there were no objections from the Flood Authority on the previous application.

Highway Safety

- 10.45 Policy IC1 states that the Council will seek to ensure that development is supported by the timely delivery of necessary infrastructure and facilities. Policy IC2 states that the Council will work with other authorities and transport providers to secure a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all.
- 10.46 Access to the site is to be taken from High St through Prospect Cottages. The Highways Authority have been consulted and returned no objections subject to conditions relating to surface water, detailed plans for roads and footways, minimum construction standards for use, details of access turning and parking and a Construction Management Plan for small sites.

Biodiversity

- 10.47 Planning Permissions in England are deemed to be granted subject to the general Biodiversity Gain Condition as set out by Schedule 7A, paragraph 13 of the Town and County Planning Act 1990 (TCPA) as amended by Schedule 14, Part 2, paragraphs 13, 14 and 15 of the Environment Act 2021. This is a pre-commencement condition. This application was submitted prior to the requirement coming into force and therefore the deemed condition will not apply in this case. Policy E3 (The Natural Environment) of the Local Plan, however, states that all development will be expected to demonstrate the delivery of a net gain for biodiversity. Paragraph 6.46 of the supporting text states that the latest DEFRA guidance and relevant metric tool should be used to demonstrate compliance

with the policy. Policy E3 also states that harm to biodiversity should be avoided, but where unavoidable, should be appropriately mitigated.

- 10.48 A Biodiversity Net Gain Metric and associated report have been submitted in support of the application. The metric shows that the site currently supports 5.74 habitat units and 2.63 hedgerow units. There are no river units at this site. The metric further shows that the development as currently designed will result in a net loss of 54.23% for habitat units and a net gain of 28.66% for hedgerow units. Based on the current proposals it is argued that the site cannot achieve a net gain for habitats within the site. An off-site contribution would therefore be required.
- 10.49 Under the previous scheme it was agreed at appeal that the Biodiversity Net Gain could be achieved on adjoining land within the applicant's ownership. This does not now appear to be proposed as a draft S106 agreement has been provided which outlines the methods for the provision or purchase of off-site units. The draft also contains provision for payments to the Council in lieu of off-site credits should the developer be unable to obtain the necessary credits. There is no provision for this in national guidance and therefore this element of the draft is not agreed. It is considered, however, that given the recommendation it is not necessary to agree the wording of the S106 at this stage. It is recommended, however, that should the Committee be minded to grant planning permission, that this be subject to the removal of this element from the S106 so that the agreement and Biodiversity net gain provision is in line with national guidance.
- 10.50 A Preliminary Ecological Appraisal has been submitted in support of the application. The appraisal indicates that an assessment of the on-site building was carried out in order to identify the presence of any potential roost features (PRFs) for bats, and/or evidence of roosting bats. In addition, a preliminary ground-level roost assessment of any trees on or directly adjacent to the site was carried out in order to identify the presence of any PRFs for bats, such as split bark, woodpecker holes and other cavities for bats and/or evidence of roosting bats. The report goes on to state that the building on site is of negligible suitability for bats owing to it having a single-skin roof with no insulation and no enclosed spaces where bats might roost. The fascias and soffits in the buildings immediately adjacent to the site were all tight to the wall and no PRFs were seen in them. One mature ash tree (*Fraxinus excelsior*) on neighbouring land immediately adjacent to the northern site boundary was identified as holding at least one potential roost feature (PRF), however, this appears to have now been felled.
- 10.51 Other nearby trees were assessed as having a moderate to high suitability for bats and therefore the report recommends that construction be limited to day light hours and the use of lighting be restricted.
- 10.52 The report goes on to state that the site is considered unsuitable for Great Crested Newts or other reptiles and no further surveys are recommended. The report also indicates that Overall, the site was deemed to be of high suitability for nesting birds. However, provided basic mitigation measures are implemented and adhered to, and (where possible) any vegetation removal carried out outside of the main bird nesting season (March to August inclusive), the impacts to nesting birds as a result of the proposed development are expected to be low.
- 10.53 The report contains a number of recommendations which should be secured by condition should members be minded to grant planning permission.

S106 Legal Agreement

- 10.54 Whilst a draft agreement has been submitted this has not been reviewed by the Councils Legal Team as this work is reserved until after a resolution from Committee is available. The following Heads of Terms have been agreed with the applicant for this application.

Table 1		
Category/Type	Contribution	Amount & Trigger
Affordable Housing	7 dwellings, 2 of which for social rent, 2 for affordable rent and 3 for intermediate units including at least one First Home.	Affordable Housing Scheme, Transfer of units linked to phased occupation of site.
POS Delivery and Maintenance	Delivery on site	Delivery and maintenance to be agreed in Open Space Scheme.
Biodiversity Net Gain	Compliance, funding, monitoring and enforcement	Scheme to be approved prior to commencement and implantation to be agreed in the scheme, monitoring fee
Self Build	2 plots	
Monitoring	S106 Monitoring	£500 index linked, prior to commencement of development

- 10.55 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.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 In order for the principle of development to be established Policy HG5 requires that a number of criteria are met. Of the criteria outlined in the Policy it is considered that the proposal conflicts with parts d. and e. which require that proposals not result in the loss of open space that is important to the historic form and layout of the village and have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.
- 11.2 In addition to the above the proposal is considered to result in less than substantial harm to the significance of the Husthwaite Conservation Area. Local Plan Policy E5 and Paragraph 208 of the National Planning Policy Framework require that less than substantial harm is balanced against any public benefits. The applicant has provided a statement identifying what they consider to be the benefits of the scheme.
- 11.3 In summary much of what is provided is the general social and economic benefits which would be associated with any housing scheme of this size. These include social and economic benefits such as the provision of housing including bungalows, additional council tax generated from this, job creation through planning, construction and post construction phases and additional spending in the area by new residents.

- 11.4 Improving the setting of heritage assets through the demolition of the barn onsite is also listed, however, it is considered that the development is not required to achieve this and would result in significantly greater harm to the Conservation Area than the existing agricultural building.
- 11.5 Under Environmental benefits the applicant has listed provision of energy efficient homes, Electric Vehicle Charging Points and water conservation however, much of this is required by Building Regulations as standard. It is considered that the many of the benefits listed in this section are undefinable such as increased incentive to improve public transport. The preservation of green space referring to the set back of development either side of the access road is considered a marginal improvement on the previous scheme but not a benefit considering the current status of the site. Indeed, the development would result in a 54% reduction in habitats which would need to be offset offsite resulting in a significantly less desirable environmental position for this site.
- 11.6 The proposal does provide one additional affordable dwelling above the 30% requirement resulting in a 35% provision at this site. The Housing Officer has confirmed that only secondary data is available relating to affordable housing need in Husthwaite. This is based on 2021 census data and information extrapolated from this such as the number of minors who will be in need of new housing or income levels etc rather than a direct needs survey based on eligibility criteria. The Housing Officer has indicated that the secondary data gives an estimate of 3 affordable dwellings per year. The provision of 7 affordable houses in this area, one more than the requirement, therefore, is a benefit of the scheme that attracts some weight.
- 11.7 The proposal also includes the provision of two self-build plots. It should be noted that in order to be considered against the Councils targets for self builds these would need to be secured by legal agreement. The applicant has provided a statement regarding the Councils requirement to provide self-build plots. The Councils Policy Officer has provided a description of how this need is calculated as the method has changed in recent years.
- 11.8 The new method of calculation results in 34 plots which must be provided by October 2026. It is possible, however, that this number may be overstated as the criteria for recording is now stricter resulting in fewer plots being counted. In addition, need that the Council would have previously considered to be met using CIL is now counted again due to stricter rules around securing the plots and the need is cumulative for a number of years. The number of plots required therefore is considered a worst-case scenario. Proposals for self-build appear to be increasing as they are exempt from provision of Biodiversity Net Gain.
- 11.9 The Council does therefore have some need for self-build plots, however, the argument put forward by the applicant that the need is significantly higher is not accepted. Neither therefore is it accepted that the provision of two self-build plots be given significant weight. In this case it is recommended that the provision of self-build plots can be afforded some weight.
- 11.10 The Council has a land supply in excess of 8 years, however, the provision of 20 units with 7 affordable dwellings and two self-build plots is acknowledged as a public benefit along with the economic benefits during construction, through increased investment, employment and spend in the supply chain, post development benefits of additional income for the

Council and spending in the local area as well as Social and Environmental benefit of public open space. This is weighted against the harm to the rural setting of the village and Conservation Area noting that Paragraph 195 of the National Planning Policy Framework highlights that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

- 11.11 Overall, it is considered that the proposal results in less than substantial harm to the significance of the Husthwaite Conservation Area and that this harm, which is permanent, is not outweighed by the public benefits of the scheme identified by the applicant. In addition the proposal is contrary to criteria d. and e. of local Plan Policy HG5 which seeks to ensure that proposals would not result in the loss of open space that is important to the historic form and layout of the village and have no detrimental impact on the character and appearance of a village, or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village.

12.0 RECOMMENDATION

- 12.1 That planning permission be REFUSED for the following reasons:

- i. The proposal would result in the loss of open space that is important to the historic form and layout of the village. In addition, the development would have a detrimental impact on the rural character of the village and result in the loss of countryside that makes a significant contribution to the character and setting of the village. The proposal is therefore contrary to criteria d. and e. of the Hambleton Local Plan Policy HG5.
- ii. The proposal would result in the erosion of the close relationship between the settlement and the open arable and pastoral fields and the relationship between the settlement and the wider rural landscape which contributes greatly to the significance of the Husthwaite Conservation Area. This impact is considered to result in less than substantial harm to the significance of the Husthwaite Conservation Area. This harm is not considered to be outweighed by public benefits and the proposal is therefore contrary to Paragraph 208 of the National Planning Policy Framework and Policy E5 of the Hambleton Local Plan.

Target Determination Date: 25.07.2024

Case Officer: Aisling O'Driscoll, aisling.odriscoll@northyorks.gov.uk