

**North Yorkshire Council**  
**Community Development Services**  
**Thirsk and Malton Area Constituency Planning Committee**  
**24<sup>th</sup> October 2024**  
**ZB24/01032/FUL - Proposed Change of Use of Existing Tourism**  
**Accommodation to Dwellinghouse**  
**At Oakleigh Cottage, Oakleigh, Alne Station, York, North Yorkshire**  
**On Behalf of Mr and Mrs L Butterworth**  
**Report of the Assistant Director Planning – Community Development**  
**Service**

**1.0 PURPOSE OF THE REPORT**

- 1.1 To determine an application for full planning permission for the change of use of existing tourist accommodation to form a dwellinghouse.
- 1.2 This application requested to be determined by the Planning Committee following a referral by Cllr Knapton to allow the Planning Committee to consider the proposal against the requirements of Policy S5 of the Hambleton Local Plan.

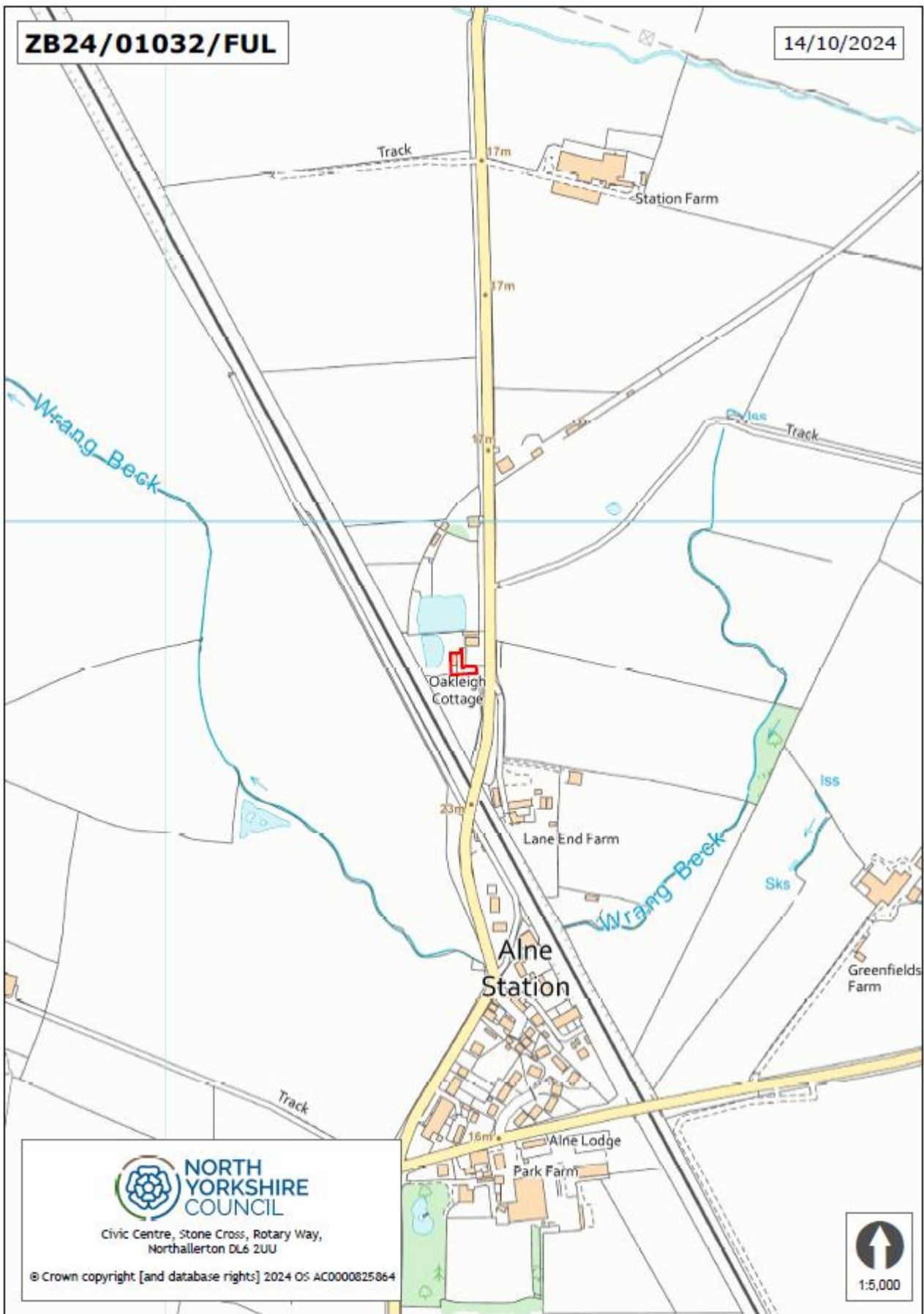
**2.0 SUMMARY**

**RECOMMENDATION:**

- 2.1 That planning permission be **REFUSED** for the reasons set out in Section 12 of this report.
- 2.2 The proposed development consists of an existing holiday let and associated land which is itself associated with the dwelling of Oakleigh, set to the north-east. The application site is bound to the west by the East Coast Mainline and, beyond this is agricultural land. Access to the site is gained via a shared access with Oakleigh. The site is residential in character due to being set within the curtilage associated with Oakleigh.
- 2.3 The holiday let which is the subject of the application is a brick-built three bedroomed unit with associated parking space. The proposal introduces a formal amenity space (approx. 158m<sup>2</sup>) to be associated with the building.
- 2.4 Consideration of compliance with Policy S5 in terms of the ability of the site to meet S5(f) and S5(g) is the main issue to be considered. Technical matters such as the impact of the East Coast Mainline on residential amenity are also of importance.

ZB24/01032/FUL

14/10/2024



**NORTH  
YORKSHIRE  
COUNCIL**

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### **3.0 PRELIMINARY MATTERS**

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

#### Planning History

3.2 Application site:

15/00457/FUL - Proposed conversion of double garage into holiday accommodation – PERMITTED.

19/01347/FUL - Proposed use of existing tourist accommodation as a dwelling – REFUSED.

20/00002/REFUSE (Appeal No.: APP/G2713/W/20/3245107) – Appeal dismissed.

### **4.0 SITE AND SURROUNDINGS**

4.1 The application site consists of a holiday let with Oakleigh, a dwelling to the north of Alne Junction. The site is within residential land associated with Oakleigh, which itself abuts the East Coast Mainline approximately 40m to the west of the holiday let. To the east is the public highway. Beyond the highway is open countryside. The boundary of the wider area associated with Oakleigh is lined by well-established planting, with some planting also present within the boundary.

4.2 The site is approx. 300m to the north of Alne Junction and approx. 1.1km to the north of Alne proper.

### **5.0 DESCRIPTION OF PROPOSAL**

5.1 The application relates to the change of use of the holiday let to form a single dwellinghouse.

5.2 The application is submitted with a Planning and Design Statement.

### **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 Consideration

6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance

## **7.0 CONSULTATION RESPONSES**

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

### Initial Consultation

#### Consultees

- 7.2 Parish Council – No objection.
- 7.3 Highway Authority – No objection.
- 7.4 Environmental Health – No objection with appropriate conditions:

“I refer to the Enzygo Noise impact assessment reference SHF.900.001.NO.R.003 dated May 2024 and I can advise that I can accept the reports noise assessment... However, I consider that the area of external amenity that is protected from exposure to noise is very limited and so greater mitigation using an acoustic barrier as identified in 5.2.8 and 5.2.9 of the report...is required”.

Conditions relating to the provision of an acoustic barrier provided.

- 7.5 Yorkshire Water – No response.
- 7.6 Network Rail - No response.
- 7.7 Contaminated Land – No objection - conditions provided.
- 7.8 MoD RAF – No objection.
- 7.9 Kyle and Upper Ouse IDB – No response.

### **Local Representations**

#### Initial Consultation:

7.10 No letters of support or objection have been received.

## **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.
- Impact upon the character and appearance of the site and locality.
- Impact upon the amenity of future residents.

- Impact on the local highways system.

## 10.0 ASSESSMENT

### Principle of Development

- 10.1 National and local policies aim to prevent development where it is deemed to be unsustainable. With regard to dwellings, sustainable development is usually determined to be development either within or directly adjacent to the built form of a settlement (governed by Policy HG5) or, where this is not the case, to be able to fall within one of the exceptions listed within Policy HG4. Neither of the above scenarios are applicable in this instance and so it is considered that the proposal would not benefit from the support of these two policies.
- 10.2 Due to the distance between the site and the built form of any identified settlement it has been determined in a previous decision (planning reference no.:19/01346/FUL) on the same site for the same proposal that the siting of a dwelling within the proposed area is not sustainable. This assessment was considered by the Planning Inspectorate at appeal, where the Inspector identified a likely preponderance of car use by any inhabitants of a dwelling, due largely to the limited public transport options within the immediate area. As a result, it was concluded that the site was too distant from local services and facilities to represent a sustainable location and the appeal was dismissed.
- 10.3 Despite developments within the NPPF and the adoption of a new Local Plan in the interim period, the approach described above remains the same and “isolated” dwellings within the countryside are discouraged via policy. Policy S5, however, allows for the conversion of a rural building where it meets the criteria set out in S5(f) and S5(g), shown below:
- “SG5(f) - The building is:
- i) The building is redundant or disused;
  - ii) Of permanent and substantial construction;
  - iii) Not in such a state of dereliction or disrepair that significant reconstruction would be required; and
  - iv) Structurally capable of being converted for the proposed use; and
- SG5(g) – The proposal:
- (i) Would enhance the immediate setting; and
  - (ii) Any extension or alteration would not adversely affect the form, scale, massing or proportion of the building.”
- 10.4 The building is modern and well-kept and, as a result, it is considered that S5(f)(ii), (iii) and (iv) are met. Further, due to the very limited external works that are being proposed, it is considered that the scheme is also compliant with S5(g)(ii).
- 10.5 The key conflicts and discussions to be had which relate to the policy are to be found in S5(f)(i) and S5(g)(i), in addition to the idea of the ability of a holiday let to be “converted” to a dwelling.
- 10.6 S5(f)(i) asks that a building which is being converted through the policy be shown to be either redundant or disused. The holiday let was demonstrated to be unviable in 2019, however, the period of operation (2015-2019) was not considered to an appropriate length of time to give a complete picture of the viability of the business by the Inspector. The Planning Statement states that, since this period, the holiday let business has remained

unviable but has not given the range of evidence required to confirm this (figures relating to the operation of the site, marketing details, etc.). It has also been claimed that the presence of the holiday let is making the wider property (Oakleigh) difficult to sell as people are unwilling to take on a holiday let.

- 10.7 As a result, it is considered that there is a likelihood of the unit remaining redundant or disused, but that the Council has insufficient information dating from 2019 to the present day that could be used to confirm this. Further, the Council has insufficient information to determine whether this is a true representation of the circumstances surrounding the business (i.e. that its failure is down to general disinterest from the wider public) or whether it is a fault of marketing (either a lack of or, alternatively, requirements which do not tally with the existing market, such as high booking fees, required lengths of stay).
- 10.8 It is therefore considered that the proposal does not meet the requirements of S5(f)(i).
- 10.9 S5(g)(i) requires that a conversion of the type proposed would enhance the immediate setting. Discussions have been undertaken with the applicant and agent to determine what form this would take within the site as the site is currently set within a well-maintained and attractive residential space and so opportunities for improvement are limited.
- 10.10 A number of solutions were proposed, such as additional planting within adjacent land, to provide additional resources for wildlife and to provide a bonus to biodiversity within the area. Whilst this sort of planting would be encouraged, it is considered that it would not provide the type of improvement necessary for compliance with the policy – the wording describes the “immediate setting”, i.e. the property and its immediate surroundings (the proposed curtilage), with any planting taking place outside of this area.
- 10.11 It is further considered that the provision of the upkeep of a property which would be gained through conversion would not be an enhancement, as appropriate maintenance of a property would be an expectation. It would not be appropriate for a building to fall into disrepair in order that a future application could provide an enhancement where previously there was no enhancement to be found.
- 10.12 Due to the limited scope offered by the already attractive and well-maintained site it is considered that the scheme would not provide an enhancement to the immediate setting of the building and therefore fails the test in S5(g)(i).
- 10.13 Further to the above, there is consideration to be had as to whether “conversion” applies to holiday lets. Due to the way in which the use classes are set out, the holiday let is technically already within the same use – C3 – as a standard dwellinghouse. Indeed, the only barrier to the use of the property as a dwelling is the existence of Condition 3 (Occupation) which was imposed on planning permission 15/00457/FUL – otherwise, the structure is, for all intents and purposes, a dwelling. It is argued that the Rural Buildings section of S5 does not therefore apply to holiday lets, given that the extent of conversion is minimal.
- 10.14 As discussed above, it is considered that the proposed scheme does not meet the requirements of Policy S5.

#### Character and Appearance

- 10.15 It is considered that the scheme would not unacceptably impact the character and appearance of the wider area and that the scale, form and appearance of the site is appropriate to its use and location. In this regard, the proposal is therefore in accordance with Policies S1, S5, E1 and E7.

## Residential Amenity

- 10.16 The Environmental Health Service have been consulted and have stated that conditions relating to acoustic fencing adjacent to the railway line to the west should be imposed on any planning permission granted. Whilst the proximity to the East Coast Mainline was cited as a reason for refusal in the 2019 application and was then upheld at appeal, the applicant has since addressed a number of issues relating to amenity impacts arising from noise and vibration. These works include the fitting of new windows and associated works.
- 10.17 As a result, the Environmental Health team have found that residential amenity within the proposed dwelling would not suffer unduly from the proximity to the railway line and that noise and vibration can be adequately managed through the measures already put in place by the applicant. The distance between the property and Oakleigh is such that there would be limited scope for overlooking and so this is not considered to be a concern.
- 10.18 It is considered that the imposition of the conditions set out by the Environmental Health service would allow the scheme to comply with Policies S1 and E2.

## Highway Safety

- 10.19 The proposed use would utilise a pre-existing access. The Highways Authority have been consulted and have not objected to the scheme.
- 10.20 It is considered that the proposal does not raise any highway safety concerns and is therefore compliant with Policy IC2.

## 11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The proposal complies with Local Plan Policies E1, E2 and IC2 and the sections of the NPPF which relate to those policies. It also partially complies with Policy S5, where it meets policy point (f)(ii), (f)(iii), (f)(iv), and (g)(ii).
- 11.2 It does not accord, however, with S5(f)(i) or (g)(i). This is due to a lack of information relating to the viability of the business from the dates 2019-2024 and the inability to provide an enhancement to the immediate area.
- 11.3 The Hambleton Local Plan states that development in the countryside will only be supported where it is in accordance with national and local planning policies, as development outside the built form of settlements, with very limited access to services and facilities, is considered to be unsustainable. This was the conclusion reached by the Council in 2019 and by the Inspectorate in 2020 and it is considered that the policy context has not altered since that period in this regard.
- 11.4 In addition, it is held that the proposal does not represent a “conversion” of the existing building, due to the use class associated with holiday lets being the same as those of a dwelling, and so the development does not benefit from the Rural Buildings section of S5.

## 12.0 RECOMMENDATION

- 12.1 That permission be **REFUSED** for the following reasons:
1. The unviability of the existing business use (as a holiday let) has not been adequately demonstrated for the previous five-year period covering 2019-2024 and so it is not possible to determine whether the current use of the structure is regarded as redundant. As a result, Policy S5(f)(i) is not met.

2. No enhancement to the immediate setting of the proposed site has been provided as part of the scheme. As a result, Policy S5(g)(i) is not met.
3. It is considered that the proposal does not represent “conversion” of a property, being within the same use class as the proposed use. It is considered that the Rural Buildings section of S5 does not therefore apply to holiday lets, given that the extent of conversion is minimal. As a result, Policy S5 is not met.

**Target Determination Date:** 25<sup>th</sup> of July 2024

**Case Officer:** Mr Connor Harrison  
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