

**Agenda**

Committee Administrator: Democratic Services Officer (01609 767015)

Wednesday, 13 October 2021

Dear Councillor

**Notice of Meeting**

Meeting **Planning Committee**

Date **Thursday, 21 October 2021**

Time **10.00 am**

Venue **Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU**

Yours sincerely

*J. Ives.*

Dr Justin Ives  
Chief Executive

<b>To:</b>	Councillors	Councillors
	P Bardon (Chairman)	J Noone (Vice-Chairman)
	M A Barningham	B Phillips
	D B Elders	A Robinson
	Mrs B S Fortune	M G Taylor
	B Griffiths	A Wake
	K G Hardisty	D A Webster

Other Members of the Council for information

Press and public are welcome to attend meetings of the Planning Committee. Due to current social distancing restrictions, measures have been implemented which limit the number of attendees able to be physically present in the meeting at any one time. Temporary arrangements are in place for members of the press and public to register their attendance no later than 24 hours in advance of the meeting taking place. Spaces are allocated on a first come first served basis. If you arrive at the Civic Centre to attend the meeting and have not registered in advance a space cannot be guaranteed if there are no vacant seats available. Members of the press and public are also able to observe the meeting virtually via Teams. Please click on the link on the website or dial 020 3855 5195 followed by the Conference ID: 948 001 630#. For further information please contact Democratic Services on telephone 01609 767015 or email [committeeservices@hambleton.gov.uk](mailto:committeeservices@hambleton.gov.uk)

## Agenda

### Page No

1. Minutes

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To confirm the minutes of the meeting held on 23 September 2021 (P.13 - P.14), attached.

2. Apologies for Absence.

3. Planning Applications

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Report of the Deputy Chief Executive.

Please note that plans are available to view on the Council's website through the Public Access facility.

4. Matters of Urgency

Any other business of which not less than 24 hours prior notice, preferably in writing, has been given to the Chief Executive and which the Chairman decides is urgent.

# Agenda Item 1

Minutes of the meeting of the Planning Committee held at 10.00 am on Thursday, 23rd September, 2021 in the Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU

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Present

Councillor P Bardon (in the Chair)

Councillor	M A Barningham	Councillor	J Noone
	D B Elders		B Phillips
	Mrs B S Fortune		A Robinson (from 1.30pm)
	B Griffiths		M G Taylor
	K G Hardisty		D A Webster

Also in Attendance

Councillor	R Kirk	Councillor	M S Robson
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Apologies for absence were received from Councillors A Robinson and A Wake

## P.13 Minutes

### **The Decision:**

That the minutes of the meeting of the Committee held on 26 August 2021 (P.11 - P.12), previously circulated, be signed as a correct record.

## P.14 Planning Applications

The Committee considered reports of the Deputy Chief Executive relating to applications for planning permission. During the meeting, Officers referred to additional information and representations which had been received.

Except where an alternative condition was contained in the report or an amendment made by the Committee, the condition as set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

The abbreviated conditions and reasons shown in the report were to be set out in full on the notices of decision. It was noted that following consideration by the Committee, and without further reference to the Committee, the Deputy Chief Executive had delegated authority to add, delete or amend conditions and reasons for refusal.

In considering the report(s) of the Deputy Chief Executive regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations. Where the Committee deferred consideration or refused planning permission the reasons for that decision are as shown in the report or as set out below.

Where the Committee granted planning permission in accordance with the recommendation in a report this was because the proposal is in accordance with the development plan the National Planning Policy Framework or other material considerations as set out in the report unless otherwise specified below. Where the Committee granted planning permission contrary to the recommendation in the report the reasons for doing so and the conditions to be attached are set out below.

### **The Decision**

That the applications be determined in accordance with the recommendation in the report of the Deputy Chief Executive, unless shown otherwise:-

- (1) 21/00331/HYB - Hybrid planning application seeking a) Outline planning permission for employment development comprising industrial uses (Class B2/E(g)(iii)) and/or storage or distribution uses (Class B8), including ancillary office space, with associated infrastructure and landscaping; and b) Full planning permission for creation of new main access and road spur with associated infrastructure at Part OS Field 6717, Eldmire Lane, Dalton for Mr R Unsworth & Mr L Ross

Permission Granted subject to additional conditions and stipulations as follows:-

- Additional Condition 37 - (Surface water site access). Prior to the completion of the site access a post construction scheme for surface water for Part b) Full Planning permission for creation of new main access and road spur as approved on drawings AMA/20573/SK006 shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the completion of the access and before development of any subsequent phase commences and shall thereafter be retained until the relevant phase with the detailed surface water drainage scheme which connects to the proposed site access has been approved and is operational.
- Additional Condition 38 - (Landscape following completion of Access Part b). Prior to the commencement of Part b) Full planning permission for creation of new main access and road spur a Landscape scheme for the periphery of the site along Dalton and Eldmire Lane shall be submitted for the written approval of the Local Planning Authority. The scheme shall include a plan identifying the provision of landscape bunds, proposed species, heights and densities of planting and specifications for maintenance. The scheme shall be implemented in the first planting season in accordance with an agreed timescale in relation to the completion of the site access and any infrastructure delivery. The approved Landscape scheme shall be incorporated into the Landscape and Ecological Enhancement Plan required by condition 16 of this consent for each subsequent Phase of the development.

- Additional requirement for a financial bond of £50,000 to be provided to the local planning authority to be used for the monitoring, recording of breaches and potential enforcement of traffic routing measures.
- Additional condition requiring landscaping/acoustic fencing on the boundary opposite Dalton Caravan Park to be undertaken prior to commencement of use of the new access on Eldmire Lane into the development site.
- Additional requirement for increased highways signage including early signage on A168 and more detailed signage to direct traffic leaving the site to use the A168 access the A1 North and South. All highways signage to be in place prior to the operation of the development site.
- Additional requirement for regular independent traffic monitoring to be undertaken.
- Additional requirement to ensure that any loss of existing landscaping/ areas of biodiversity are replaced.
- An informative to be included that, notwithstanding the indicative layout plan, the larger/higher scale buildings should be sited nearer existing large neighbouring buildings (Wagg Foods Ltd) and the smaller/lower buildings should be sited nearer Dalton Lane and Eldmire Lane.
- HGV/lorry parking and holding areas to be detailed in the Routing and Management Operating Plans for the Section 106 legal agreement.
- A requirement that the reserved matters application is brought to Planning Committee for determination.

(The applicant, Hamish Robertshaw, spoke in support of the application.)

(Jamie Moores spoke on behalf of Topcliffe Parish Council.)

(Tony Bruce and Christian Rundell spoke objecting to the application.)

Note: Councillor M S Robson left the meeting at 11.51am.

The meeting adjourned at 11.51am and reconvened at 1.30pm.

Councillor R Kirk and Councillor A Robinson arrived at the meeting at 1.30pm

- (2) 20/00008/FUL - Change of use of an existing agricultural building to a function venue at Westholme, York Road, Thirsk for Mrs Sarah Goacher

Permission Refused

(The applicant, Clare Jones, spoke in support of the application.)

(Jean Varey spoke on behalf of Bagby and Balk Parish Council objecting to the application.)

- (3) 21/00925/OUT - Outline planning application with all matters reserved for a residential development of up to 30 dwellings for H.W.Mawer Charitable Trust at OS Field 5800, Land Adjoining Skottowe Crescent, Great Ayton

Permission refused in accordance with the officer report and recommendation.

(The applicant's agent, James Holmes, spoke in support of the application.)

(Howard Whitehead spoke objecting to the application.)

Note: Councillor R Kirk left the meeting at 2.42pm.

- (4) 21/01613/FUL - Construction of a detached dwelling with ancillary domestic buildings, including garages, barn, AD unit, stables plus equestrian area and associated landscaping at Dromonby Bridge Farm, Busby Lane, Kirkby in Cleveland for Mr R Jones

Permission Refused. The Committee refused the application for the following reasons: that the proposed development did not meet any of the exceptions under paragraph 80 of the NPPF; that the proposed development was contrary to CP4 and DP9 as the site was outside development limits and there were no exceptional circumstances to justify the granting of the application; and contrary to DP30 as the proposal did not protect the character and appearance of the countryside; and that the proposed development was contrary to DP30 as the proposal did not protect the character and appearance of the countryside.

The decision was contrary to the recommendation of the Deputy Chief Executive.

Note: The meeting was adjourned at 3.42pm and reconvened at 3.49pm.

- (5) 21/01453/FUL - Alterations to existing farmhouse to create 2no self-contained dwellings for assured shorthold tenancy letting purposes at 3 Linton Wood Farm, Linton Woods Lane, Linton On Ouse for Univ Dev Co University College Oxford

Permission Granted subject to officers requesting confirmation from the agent regarding replacement windows and replacement of lean-to extension, with these matters to then be subject to condition.

- (6) 20/02491/OUT - Outline application with some matters reserved for the construction of two detached dwellings with garages and parking incorporating garaging and parking for Holly Tree Cottage at Holly Tree Cottage North End, Raskelf for Mark and Katie Stocks

Permission Refused. The Committee refused the application on the basis that the proposed development would constitute overdevelopment of the site; constitute back land development; constitute cramming of dwellings on the site; and have a detrimental impact on the character of the area.

The decision was contrary to the recommendation of the Deputy Chief Executive.

(David Lee spoke objecting to the application.)

The meeting closed at 4.20 pm

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Chairman of the Committee

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# Planning Applications

**The attached list of planning applications is to be considered at the meeting of the Planning Committee at the Civic Centre, Stone Cross, Rotary Way, Northallerton on Thursday 21 October 2021. The meeting will commence at 10am.**

Further information on possible timings can be obtained from the Democratic Services Officer, Louise Hancock, by telephoning Northallerton (01609) 767015 before 9.00am on the day of the meeting.

The background papers for each application may be inspected during office hours at the Civic Centre. Documents are available to view at [www.planning.hambleton.gov.uk](http://www.planning.hambleton.gov.uk). Background papers can include the application form with relevant certificates and plan, responses from statutory bodies, other interested parties and any other relevant documents. Any late submission relating to an application to be presented to the Committee may result in a deferral decision

Members are asked to note that the criteria for site visits is set out overleaf.

Following consideration by the Committee, and without further reference to the Committee, the Deputy Chief Executive has delegated authority to add, delete or amend conditions to be attached to planning permissions and also add, delete or amend reasons for refusal of planning permission.

Mick Jewitt  
Deputy Chief Executive

## Site Visit Criteria

1. The application under consideration raises specific issues in relation to matters such as scale, design, location, access or setting which can only be fully understood from the site itself.
2. The application raises an important point of planning principle which has wider implications beyond the site itself and as a result would lead to the establishment of an approach which would be applied to other applications.
3. The application involves judgements about the applicability of approved or developing policies of the Council, particularly where those policies could be balanced against other material planning considerations which may have a greater weight.
4. The application has attracted significant public interest and a visit would provide an opportunity for the Committee to demonstrate that the application has received a full and comprehensive evaluation prior to its determination.
5. There should be a majority of Members sufficiently familiar with the site to enable a decision to be made at the meeting.
6. Site visits will normally be agreed prior to Planning Committee in consultation with the Chairman or Vice-Chairman of the Planning Committee. Additional site visits may be selected following consideration of a report by the Planning Committee.

# PLANNING COMMITTEE

## Thursday 21 October 2021

Item No	Application Ref / Officer / Parish	Proposal / Site Description
	Morning session to commence at 10:00am	
<b>1</b>	20/02882/OUT Aisling O'Driscoll Aiskew  Page No. 13	Outline planning application with access considered for the development of up to 88 dwellings on land at Blind Lane, Aiskew  At: Store at Old Hatchery, Blind Lane, Aiskew For: Blind Lane Land Limited  <b>RECOMMENDATION: APPROVE</b>
<b>2</b>	21/00668/FUL Craig Allison Bagby & Thorntons  Page No. 31	Retrospective extension to Hangar A and proposed hard standing adjacent to Hangar A  At: The Airfield, Bagby For: Mr M Scott  <b>RECOMMENDATION: REFUSAL</b>
<b>3</b>	21/01058/FUL Craig Allison Bagby & Thorntons  Page No. 45	The retention of 2 temporary hangars on site for a use for aircraft storage and ancillary storage of airfield machinery and equipment for a period of 24 months  At: The Airfield, Bagby For: Mr M Scott  <b>RECOMMENDATION: REFUSAL</b>
<b>4</b>	21/01243/FUL Craig Allison Bagby & Thorntons  Page No. 57	Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage  At: The Airfield, Bagby For: Mr M Scott  <b>RECOMMENDATION: REFUSAL</b>
<b>5</b>	21/01374/FUL Helen Ledger Ellerbeck  Page No. 71	Sub-division of the existing dwellinghouse to form 2no dwellings with associated parking  At: Village Farm, Ellerbeck For: Cowesby Estate Ventures  <b>RECOMMENDATION: APPROVE</b>

Item No	Application Ref / Officer / Parish	Proposal / Site Description
	Afternoon session to commence at 1.30pm	
6	21/01017/MRC Craig Allison Husthwaite  Page No. 77	Variation of Application Reference Number 18/02661/MRC- Variation of Conditions attached to Planning Consent 16/01987/OUT-Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017  At: Former Garage, Low Street, Husthwaite For: Mr and Mrs Walker  <b>RECOMMENDATION: APPROVE</b>
7	21/00582/OUT Andrew Cotton Kirkby Fleetham with Fencote  Page No. 89	Outline planning application (some matters reserved) for the construction of 5 No. residential dwellings with access from Lumley Lane.  At: Land At Friars Garth Lumley Lane Kirkby Fleetham For: Mr S Greensit  <b>RECOMMENDATION: APPROVE</b>
8	20/02689/HYB Aisling O'Driscoll Northallerton  Page No. 99	Hybrid Planning Application comprising: 1) Full planning permission is sought for the demolition of the existing farmhouse and buildings and construction of a commercial development comprising of 21,000sq ft (1951 sq.m) of trade counter space (B8), a 3,777sq ft (351 sq.m) drive thru (E b) and sui generis and associated infrastructure comprising of carparking, landscaping, drainage and construction of an access road (Phase A1) from the Darlington Road to cross enable Phase 1B and 2. 2) Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up to 15,000sq ft (1395 sq.m) E g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2 at Land South East of Moor Close, Darlington Road, Northallerton For: Beckwith Knowle Developments Ltd  <b>RECOMMENDATION: APPROVE</b>

Item No	Application Ref / Officer / Parish	Proposal / Site Description
9	21/01544/FUL Andrew Cotton Shipton by Beningbrough  Page No. 123	Residential development 2 units adjoining Redworth Bungalow Main Street, Shipton.  At: Land to rear Of Redworth Bungalow, Main Street, Shipton By Beningbrough For: Mr C. Reynard  <b>RECOMMENDATION: APPROVE</b>
10	21/01901/FUL Angela Sunley Stokesley  Page No. 133	Erection of two detached garages as amended on 19 August 2021  At: Cringle Moor, Thirsk Road, Stokesley For: Mr and Mrs C Atha  <b>RECOMMENDATION: APPROVE</b>
11	21/01617/FUL Helen Ledger West Tanfield  Page No. 141	Conversion of general purpose agricultural livestock and storage building to general industrial use (Class B2), associated parking and new vehicle access and road to the site from the B6267  At: The Long Acres, Fore Lane, Thornborough For: Steven Houston, MHS Countryside Management Ltd  <b>RECOMMENDATION: REFUSAL</b>
12	21/01122/MRC Jon Berry Dalton  Page No. 149	Application for removal of condition 3 (occupancy use - to allow for all year round residential occupancy) of approved application 2/04/037/0123B (04/02047/FUL) for the change of use of agricultural land to enable the siting of 3 static caravans  At: Dalton Bridge House Caravan Park, Field Adjacent to Dalton Bridge House, Dalton Lane, Dalton For: Mr and Mrs Cowell  <b>RECOMMENDATION: APPROVE</b>
13	21/01125/MRC Jon Berry Dalton  Page No. 161	Application for removal of condition 9 (occupancy use - to allow for all year round residential occupancy) of approved application 2/99/037/0123A for Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council on 22nd September 1999  At: Dalton Bridge House Caravan Park, Field Adjacent to Dalton Bridge House, Dalton Lane, Dalton For: Mr and Mrs Cowell  <b>RECOMMENDATION: APPROVE</b>

Item No	Application Ref / Officer / Parish	Proposal / Site Description
14	21/01126/MRC Jon Berry Dalton  Page No. 173	Application for removal of condition 9 (occupancy use) of approved application 14/01388/FUL. To allow for all year round residential occupancy  At: Dalton Bridge House Caravan Park, Field Adjacent to Dalton Bridge House, Dalton Lane, Dalton For: Mr and Mrs Cowell  <b>RECOMMENDATION: APPROVE</b>
15	21/01370/FUL Helen Ledger Great Ayton  Page No. 185	Change of use of land for the siting of a modular building club house (to be used as a facility by lodge park guests, as well as for weddings and private functions), alterations to siting and appearance of siting and appearance of approved lodges, new car parking area and retrospective formation of tiered outdoor seating, outdoor beach area, cinema screen, wedding pergola, internal roads, and all other hard and soft landscaping and associated works - as amended by Hambleton District Council 04.10.2021  At: Strawberry Fields For: Mr A Platts  <b>RECOMMENDATION: REFUSE</b>

**Parish: Aiskew**  
Ward: Bedale  
**1**

Committee date: 21 October 2021  
Officer dealing: A O'Driscoll  
Target date: 19 March 2021

**20/02882/OUT**

**Outline planning application with access considered for the development of up to 88 dwellings on land at Blind Lane, Aiskew**

**At: Store At Old Hatchery, Blind Lane, Aiskew**

**For: Blind Lane Land Limited**

**This application is referred to Planning Committee as the proposed development is a major development and significant local interest has been identified.**

1.0 Site, context and proposal

1.1 The application site is located on the south east side of Aiskew – south of the A684 and north of the Wensleydale Railway. The site features a number of agricultural and commercial buildings previously used as a piggery and hatchery respectively. The applicant indicates that part of the hatchery site is occupied by a tenant for storage and food processing and the piggery which has been vacant for a number of years is now semi-derelict and overgrown.

1.2 The site is split in two by a mature leylandii hedge/tree line with the piggery buildings to the north and the hatchery to the south. An area of open space lies to the south. Existing access can be gained firstly from Blind Lane via an unadopted road, secondly via a shared track between 54 and 56 Bedale Road and thirdly from the south over the Wensleydale line. A public right of way runs along the western boundary of the site linking Bedale Rd to Love Lane through Blind Lane.

1.3 The application site forms part of allocations BH2 and BH3 as follows: *BH2 Pig Farm Aiskew (1.1ha), BH3 South East of Aiskew (5.8ha) These linked sites are allocated for housing development, subject to:*

*i. development of Site BH2 being delivered in Phase 1 (up to 2016), at a density of approximately 35 dwellings per hectare, resulting in a capacity of around 38 dwellings (of which a target of 40% should be affordable);*

*ii. development of Site BH3 being delivered in Phase 1 (up to 2016) and Phase 2 (2016-21), at a density of approximately 35 dwellings per hectare, resulting in a capacity of around 203 dwellings (of which a target of 40% should be affordable);*

*iii. types and tenure of housing developed meeting the latest evidence on local needs;*

*iv. suitable and satisfactory access being gained to the sites from the A684 and an appropriate design and loop layout of the development being achieved;*

*v. potential access from this site to Site BM2 adjacent being retained as part of the design and layout of any development of Sites BH2/BH3;*

*vi. contributions from the developer towards providing public open space, enhancement of footpath and cycleway links including the public right of way which crosses this site and along the Wensleydale Railway route, including improvements to Bedale Bridge and any sewerage and sewage disposal infrastructure improvements required to accommodate new development in the area; and*

*vii. contributions from the developer towards the provision of additional school places and local health care facilities as necessary.*

- 1.4 To the east is an area of open space which forms part of the allocation. To the north, west and south west of the site is residential development. To the south is the Wensleydale Railway line with open countryside beyond.
- 1.5 The site appears generally flat with the topographical survey indicating a gentle slope from north west to south east.
- 1.6 The application is in outline for residential development up to 88 units. The only matter for approval at this stage is access. The remaining matters, i.e. appearance, landscaping, layout and scale would be for a later application if this is approved.
- 1.7 It is proposed that the main access be taken from the west through the neighbouring development via Bluebell Way. Emergency and further pedestrian access is to be taken from Blind Lane.
  
- 2.0 Relevant planning and enforcement history
- 2.1 81/0144/FUL - Extension To Existing Chicken Hatchery - Granted
- 2.2 87/0188/FUL - Alterations To Two Existing Bungalows - Granted
- 2.3 00/50017/P - Change of use of existing disused chicken hatchery to the manufacture and packing of organic and traditional food and drink - Granted
- 2.4 04/00072/FUL - Construction of a timber store and amendment to Condition 03 of planning consent 2/00/004/0092F – Granted
  
- Adjacent sites:
- 2.5 Land To The South Of 28 Bedale Road 14/01228/FUL - Construction of 41 no. dwellings, provision of access and associated landscaping – Granted
- 2.6 Land To Rear Of 28 – 34 Bedale Road 11/02543/FUL - Construction of 59 dwellings and associated roads, sewers and landscaping -



### 3.0 Relevant planning policies

#### 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 – Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP5 - The scale of new housing  
Core Strategy Policy CP6 - Distribution of housing  
Core Strategy Policy CP7 - Phasing of housing  
Core Strategy Policy CP8 - Type, size and tenure of housing  
Core Strategy Policy CP9 - Affordable housing  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Core Strategy Policy CP18 - Prudent use of natural resources  
Core Strategy Policy CP19 - Recreational facilities and amenity open space  
Core Strategy Policy CP20 - Design and the reduction of crime  
Development Policies DP1 - Protecting amenity  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP6 - Utilities and infrastructure  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 - General design  
Affordable Housing - Supplementary Planning Guidance - June 2008  
Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation  
Development Policies DP33 – Landscaping  
Supplementary Planning Document - Sustainable Development - Adopted 22 September 2009  
Supplementary Planning Document - Size, type and tenure of new homes - adopted September 2015  
Supplementary Planning Document - Open Space, Sport and Recreation Adopted 22 February 2011

#### Hambleton emerging Local Plan

The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>  
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

#### National Planning Policy Framework

### 4.0 Consultations

4.1 Parish Council – No response received at time of writing

4.2 Highway Authority – No Objections subject to conditions

- 4.3 North Yorkshire County Council Footpaths – a public right of way runs within or adjacent to the site, provides standing advice
- 4.4 Ramblers – Footpath should not be subsumed by development, should be retained as a separate countryside path. Rail crossing may require improvement, long term proposal for a cycle path Bedale-Northallerton.
- 4.5 Lead Local Flood Authority - recommends the application is not approved, further info requested 24.09.2021 response from agent that not forthcoming, awaiting final Lead Local Flood Authority comments
- 4.6 Yorkshire Water – recommend conditions but also additional information
- 4.7 Natural England – No comments
- 4.8 Yorkshire Wildlife Trust – Object until the applicant can show that a net gain for biodiversity can be achieved.
- 4.9 Network Rail – recommends conditions in relation to drainage, boundary fencing, method statements, soundproofing and landscaping
- 4.10 North Yorkshire Police Designing Out Crime Officer – acknowledges that the application is in outline, provides recommendations to be incorporated into the reserved matters application.
- 4.11 MOD – Site occupies the statutory aerodrome height, technical, and bird-strike safeguarding zones, this should be considered at reserved matter stage. Advice given on design and points of interest for MOD.
- 4.12 Environmental Health Officer – Noise Assessment required at RM stage
- 4.13 Public comments – 19 letters of representation were received from 17 member of the public raising the following issues:
- Increased traffic and highways safety
  - Current access through Bluebell Way is badly designed and not yet adopted
  - Impact on safety of existing residents including children due to changes in nature of the road and its use
  - Wear and tear on Bluebell Way due to increased traffic
  - Blind Lane is preferable to Bluebell Way for access
  - Blind Lane should not be used for access to the development
  - Blind Lane could become a rat run
  - Impact on climate change (development should reduce carbon emissions)
  - Lack of improvement to local services (need for GP and Community Hall, pressure on schools)
  - Does not comply with the strategic objectives in the Core Strategy
  - Impact on biodiversity
  - Large volume of development away from the town centre
  - Impact on residential amenity through noise, pollution, privacy and security

- Development would tidy up an unsightly site

## 5.0 Analysis

### 5.1 The main issues to consider are:

i) principle of development; ii) Access and Highways Safety; iii) Drainage; iv) Affordable housing; v) Amenity; vi) Open Space and; vii) Biodiversity

#### Principle

5.2 The principle of residential development is established through the allocation of the site for housing under BH2 and BH3 of the LDF. The site includes part of BH2 excluding the area between Aiskew House Farm and Bedale Road. The site also encompasses the remaining undeveloped part of BH3. BH3 has, to date, come forward through two permissions from 2011 and 2014 totalling 100 dwellings.

5.3 Together BH2 and BH3 allocated land for approximately 241 dwellings at a density of 35 dwellings per hectare. The 2014 permission saw a density of 32 dwellings per hectare and the 2011 permission 28.9 dwellings per hectare. This proposal for 88 would result in approximately 32 dwellings per hectare. This gives a total overall of 188 dwellings. Given the current housing land supply in excess of 10 years and that it is not intended to carry the allocation forward in the Emerging Local Plan this shortfall of delivery is considered acceptable.

5.4 LDF Policy DP17 states that “sites and premises used and/or allocated for employment purposes will be safeguarded for that use. Permission for any use that may have an adverse effect on an area’s primary purpose for employment will not be granted, unless: [...] iii. there would be substantial planning benefit in permitting an alternative use, for example in removing a use which creates residential amenity problems such as noise or odours”.

5.5 As stated in the allocation justification section, it is considered that the redevelopment of this site for housing would have amenity benefits for surrounding residential uses through the removal of a piggery use. It is also considered that the benefits of providing up to 88 dwellings with an element of affordable housing are sufficient to offset the loss of employment uses.

#### Access and Highways Safety

5.6 LDF Policy DP3 supports the provision of sustainable forms of transport to access the site and within the development. Provision must be made for, where appropriate, footpaths, cycleways, cycle storage, bus stops, travel plans and parking.

5.7 Draft Policy CI 2 of the Emerging Local Plan indicates that a proposal will be supported where it is demonstrated that the development can be satisfactorily accommodated within the network, can be well integrated with footpath, cycling and public transport networks, provides proportionate contributions towards improvements where necessary, maximises opportunities for walking,

cycling and public transport, provides safe access for both users and emergency vehicles and adequate parking.

- 5.8 The allocation policy indicates that access to the development should be taken from the adjacent development via Bluebell Way. Ownership issues and proximity to the mini roundabout at Sandhill Lane have resulted in Blind Lane being discounted as the preferred main access point.
- 5.9 Blind Lane is a private road providing access to two properties located on the south eastern side of the Wensleydale Heritage Railway Line. The applicant has agreement with the owners of Blind Lane that the private road be retained across the extended Bluebell Way, affording access only to those two properties. During the life of the application the method of controlling the access to blind Lane has been altered. Originally gates and fixed kerbing (preventing any turning) were proposed. This was then altered to two sets of drop-down bollards and fixed kerbing to the north and south of the Bluebell Way extension.
- 5.10 The final proposal is a single set of manually operated drop-down bollards and fixed kerbing on the northern section of blind lane only. Access can therefore be gained from the southern part of Blind Lane through to Bedale Road via Bluebell Way and vice versa. This allows for unexpected visitors, post and deliveries etc to these properties whilst retaining the right of access over Blind Lane but discouraging its general use by residents of the new development. It is anticipated that the northern section of blind Lane will be accessed through the bollards by keyholders for example for movement of larger agricultural vehicles.
- 5.11 A Public Right of Way runs along the south western boundary of the application site, linking Bedale Road to Love Lane. The existing alignment of the Public Right of Way will be retained and a new pedestrian link will be gained from Bluebell Way.
- 5.12 North Yorkshire County Council Officers were consulted and returned the following final commentary: The proposal to develop land to east of Blind Lane takes advantage of the possible link from the Linden Homes development to the west of Blind Lane. The applicant wishes to extend Blue Bell Way into the proposed site. The highway authority does not object to this proposal as it has been shown by the developer that the existing road network has spare capacity to extend the residential development into the adjoining land. The junctions at Blue Bell Way/ Sycamore Ave and Bedale Road/Sycamore Ave have visibility splays which meet the requirements set in Manual for Streets design standards of at least 2.4m by 43m in both directions. The developer has shown that large vehicles can enter and leave the site along Sycamore Ave and Blue Bell Way in the construction phase although the contractor will have to take control of any delivery to ensure access is possible.
- 5.13 The Highways Officer has recommended a number of conditions relating to detailed layout and plans, verge crossing specifications, visibility splays, parking, removal of permitted development rights, travel plan delivery, and a construction management plan.

## Drainage

- 5.14 LDF Policy DP32 indicates that sustainable drainage systems (SuDS) should be included where possible.
- 5.15 Emerging Local Plan Policy RM 3 relates to surface water and drainage management. Of relevance to this case is the requirement that SuDS be incorporated in the drainage design.
- 5.16 Paragraph 167 of the National Planning Policy Framework states that: When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.
- 5.17 Paragraph 169 states: Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.
- 5.18 Paragraph 80 of Planning Practice Guidance indicates that generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:
- into the ground (infiltration);
  - to a surface water body;
  - to a surface water sewer, highway drain, or another drainage system;
  - to a combined sewer.
- Particular types of sustainable drainage systems may not be practicable in all locations.
- 5.19 The Geo-environmental report submitted with the application indicates that the site is unsuitable for infiltration/soakaway drainage due to ground conditions. The Flood Risk Assessment submitted with the application indicates that in order to connect to Bedale Beck, the nearest waterbody, the drainage system would need to cross a considerable amount of third party land and has therefore been deemed unfeasible.
- 5.20 Survey of the site has identified an existing surface water drainage system. This system connects to an offsite system to the east. Whilst it has not been confirmed where the ultimate discharge point is the applicant has argued that the existence of the system, which has drained the site so far, is sufficient to show that the site could be adequately drained. In addition, there is also an option to connect to existing systems at Badger Hill Drive and Elm Tree Lane (subject to agreement).
- 5.21 The Lead Local Flood Authority were consulted and have agreed that the information submitted is sufficient for this stage of the development and that the remaining information can be secured by conditions. Conditions are recommended relating to detailed design, run off rates, storage, maintenance, outfall destination/impact on network and exceedance flow routes.

## Affordable Housing

- 5.22 LDF Policy CP9 states that Housing development of 15 or more dwellings (or sites of 0.5ha or more) in the Service Centres must make provision for affordable housing. In this case the requirement under the LDF for Bedale and hinterland would be 40%. Allocation Policies BH2 and BH3 also indicate a 40% target for affordable housing.
- 5.23 In terms of tenure split 70% social rent and 30% intermediate tenure will be sought unless evidence can be provided for an alternative split. This in turn should be supported in writing by the Registered Provider to whom the homes will be transferred.
- 5.24 The Council's Affordable Housing SPD requires that the affordable homes are pepper-potted throughout the site in clusters of not more than six to eight dwellings. As the application is in outline with access only considered this will be dealt with at Reserved Matters stage.
- 5.25 Through discussions with Registered Providers operating in the area the Councils Housing Officer has indicated that the offer should include good size two bedroom bungalows, 4 or 8 one bed quarter houses, 3 – 4 four bed houses and a mix of two and three bed houses.
- 5.26 The supporting statement indicates that affordable housing can be provided on site subject to viability. The agent has indicated that 30% is proposed in line with the Emerging Local Plan evidence subject to viability. This, along with a tenure mix in accordance with the Council's SPD will be subject of the S106 agreement.

## Amenity

- 5.27 LDF Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight. Development must make provision for the basic amenity needs of occupants and/or users, including where appropriate provision for an adequate level of open space for the use of occupants/users of the development. Developments must not unacceptably reduce the existing level of amenity space about buildings, particularly dwellings, and not unacceptably affect the amenity of residents or occupants.
- 5.28 Emerging 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.
- 5.29 The justification for the allocation at this site indicates that "these sites are proposed for development because the redevelopment of the pig farm and

hatchery for housing will improve the residential amenity of the area and minimise the need to develop more open greenfield sites”.

- 5.30 An indicative plan has been submitted with the application showing how the proposed dwellings could be accommodated within the site. Given the density outlined above at 32 dwellings per hectare, it is considered that the dwellings could be sited within the site in a manner which would provide a suitable level of amenity to future occupiers.
- 5.31 The Councils Environmental Health Officer was consulted and they have recommended that a noise assessment be submitted with any Reserved Matters application. The assessment should detail how the proposed properties will be protected from the impact of noise from the railway line. The Environmental Health Officer considered that given the proximity of nearby residential development to the railway line it would be unreasonable at this stage to require this work to be done at outline stage.

#### Open Space

- 5.32 The Open Space, Sport and Recreation SPD indicates that amenity green space a children’s play area and facilities for young people and teenagers should be provided on developments proposing between 80 and 300 dwellings. Similarly, Appendix E of the Emerging Local Plan indicates that amenity greenspace, a play area and facilities for young people are required on site.
- 5.33 A financial contribution towards improvement of existing provision may be considered appropriate where existing provision lies within the walking distance guideline of the development and providing the quantity standard is achieved.
- 5.34 Approximately 200m to the north is the Cherry Grove/Kingfisher Drive recreation grounds. This includes open green areas, playing fields and various play equipment. As the development site is separated from these facilities by Bedale Road it is considered acceptable that on site provision be made for a LEAP. Given the proximity to the existing recreation grounds a contribution towards the maintenance of this area may be acceptable to address the requirements for amenity space and facilities for young people generated by the development.

In this case as the application is in outline and the layout has not been designed a condition is recommended requiring the submission of a scheme for the provision of open space. The agent has agreed that provisions for a security bond will be included in the s106 agreement which can be used for the setting out of public open space should the developer default for any reason.

#### Biodiversity

- 5.35 Policy DP31 of the LDF states that ‘Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation [...] Support will be given [...] to the enhancement and increase in number of sites and habitats of nature conservation value’.

- 5.36 Policy E 3 of the Emerging Local Plan requires that harm to a feature of biodiversity interest, will only be supported where harm is unavoidable, then appropriate mitigation is provided to lessen the impact of any unavoidable harm, and as a last resort compensation is delivered to offset any residual damage to biodiversity. Policy E 3 also requires the use of a biodiversity offsetting metric to demonstrate that a proposal will deliver a net gain for biodiversity. It must also be demonstrated that the need for the proposal outweighs the value of any features that would be lost.
- 5.37 An Ecological Appraisal was carried out by Smeeden Foreman Limited and the subsequent report submitted in support of the application. The report includes a desk study of relevant information including designated nature conservation sites and existing records of protected species, an initial site survey (extended phase 1 habitat survey) and species-specific surveys in respect to bats.
- 5.38 The report indicates that there are no statutory or non-statutorily designated sites located within 2km of the application site.
- 5.39 The report indicates that the principal habitats within the application site are generally considered to be of low conservation value, predominantly comprising species poor semi-improved grassland, buildings and associated areas of hard standing. The trees, areas of scrub and hedgerows within the site are considered to be of some conservation value, as these provide suitable habitat for breeding and roosting bird species, bats and small mammals such as hedgehogs.
- 5.40 Potential for foraging/commuting and roosting bats was identified and the site was subsequently surveyed. It was found that bat use of the site was generally low with activity limited to the eastern and western boundaries. Activity was predominantly common and soprano pipistrelle, with very limited use by Myotis and brown long eared bats.
- 5.41 Initial building inspections found no signs or evidence of roosting bats in any of the buildings. Subsequent emergence/re-entry surveys of the buildings found no evidence of roosting bats with a low number of bats recorded commuting/foraging within the vicinity of the buildings.
- 5.42 Two trees on the site have been identified for removal and were therefore subject to emergence surveys. No roosts were found, however, it is recommended that these are re-surveyed prior to felling. It is also recommended that if any other trees are identified for removal that these also be surveyed prior to works.
- 5.43 No Species of birds which are protected by Schedule 1 of the Wildlife and Countryside Act 1981 were recorded within the site. In addition, no nests were noted within the buildings on the site. As all wild birds are protected during breeding it is recommended that any site clearance works take place outside of breeding season (March – August inclusive). It is also recommended that the building be re checked for nests prior to demolition.



- 5.44 Breeding tawny owl were identified using trees north of site during the 2020 bat transect surveys. Activity was recorded to the north of the piggery site, calling from conifer trees and demonstrating defensive behaviour at a nest site. Audible calls from juvenile birds were confirmed by the surveyor. Tawny owl are an Amber-listed species of conservation concern. It is recommended alternative nest provision is provided within the new development by installation of a nest box upon a suitable retained tree on site.
- 5.45 One badger record was provided within 2km of the site but no signs of badger were recorded within or adjacent to the site during the survey. Due to the presence of suitable habitat in the surrounding local area it is anticipated that badger may access the site for foraging and commuting purposes. Precautionary working methods are therefore recommended to be adopted during construction works to prevent accidental harm or injury.
- 5.46 Yorkshire Wildlife Trust were consulted and requested the submission of a Biodiversity Net Gain Assessment. This was subsequently submitted and included the use of the DEFRA Biodiversity v2.0 Metric. Based on the indicative layout the development is likely to result in a 7.85% loss for habitat units and 32.63% gain for hedgerow units.
- 5.47 The Metric does not count biodiversity enhancements with respect to species (such as bird and bat boxes) and therefore biodiversity net gains attributed to these enhancements are not reflected within the measurable results obtained from the Metric. Additional measures including permanent bat box provision, gaps below fencing to maintain connectivity for hedgehog and a range of bird boxes for species of known conservation concern (house sparrow, starling, house martin and tawny owl), whilst not reflected within the calculation, could contribute to biodiversity gains within the site.
- 5.48 In this case, given the outline nature of the application, it is recommended that a condition be included requiring the submission of a scheme detailing the measures to be included in the design which result in measurable net gains for biodiversity.

#### Planning Balance

- 5.49 The application seeks outline consent for up to 88 dwellings on a site allocated for housing in the current LDF. The development will result in the loss of an employment site, however, as the proposal is for housing on an allocated site, it is considered that the loss is out-weighted by the benefits of providing additional housing. As part of the proposal, affordable housing will be provided at a rate of 30%, in line with the emerging Local Plan which is based on the most up-to-date evidence. It is considered that the proposal for up to 88 dwellings reasonably satisfies the provisions of the allocation policy and relevant policies of the LDF and the emerging Local Plan.
- 6.0 Recommendation
- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:

1. Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Three years from the date of this permission ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
2. The development shall not be commenced until details of the following reserved matters have been submitted to and approved by the Local Planning Authority: (a) the siting, design, scale and external appearance of each building, including a schedule of external materials to be used; (b) the landscaping of the site.
3. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
4. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation. The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing by the Local Planning Authority before any part of the development is brought into use.
5. The development must not be brought into use until the access to the site at Bluebell Way has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements: The access must be formed to give a minimum carriageway width of 5.5metres, and that part of the road extending into the site must be constructed in accordance with Standard Details issued by the local highway authority. All works must accord with the approved details.
6. There must be no access or egress by any vehicles between the highway and each property application site until visibility splays providing clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway of the major road have been provided. In measuring the splays the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

7. No dwelling must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.
9. The development must be carried out and operated in accordance with the approved Travel Plan named REPORT NO 20536-002 and received by Hambleton District Council on 18.12.2020. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.
10. No development for any phase of the development must commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan. The Plan must include, but not be limited to, arrangements for the following in respect of each phase of the works: 1. details of any temporary construction access to the site including measures for removal following completion of construction works; 2. restriction on the use of Blind lane access for construction purposes; 3. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway; 4. the parking of contractors' site operatives and visitor's vehicles; 5. areas for storage of plant and materials used in constructing the development clear of the highway; 6. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas; 7. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes; 8. protection of carriageway and footway users at all times during demolition and construction; 9. protection of contractors working adjacent to the highway; 10. details of site working hours; 11. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate; 12. Means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development; 13. measures to control and monitor construction noise; 14. an undertaking that there must be no burning of materials on site at any time during construction; 15. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works; 16. details of the measures to be taken for the protection of trees; 17. details of external lighting equipment; 18. details of ditches to be piped during the construction phases;

11. Development shall not commence until a scheme detailing surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document). The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed. Note that further restrictions on surface water management may be imposed by Yorkshire Water and the Local Planning Authority.
12. Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to 5.65 L/S. A 30% allowance shall be included for climate change effects and a further 10% for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.
13. No development shall take place until a suitable maintenance scheme for the proposed SuDS drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Details with regard to the maintenance and management of the approved scheme to include; drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.
14. Development shall not commence until a scheme for the accommodation of additional flows impacting upon the drainage network have been submitted to and approved in writing by the Local Planning Authority, including further survey and investigation of the existing drainage system to confirm wider connectivity. The scheme shall cater for the impact resulting from the minimum 1 in 100 year return period storm event including a 30% allowance for climate change effects and a further 10% for urban creep for the lifetime of the development. No part of the development shall be brought into use until the works comprising the scheme approved under this condition have been completed.
15. No development shall take place until an appropriate Exceedance Flow Plan for the site has been submitted to and approved in writing by the

Local Planning Authority. Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. This is achieved by designing suitable ground exceedance or flood pathways. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.

16. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
17. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical; b) evidence of existing positive drainage to public sewer and the current points of connection; and c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.
18. No building or other obstruction including landscape features shall be located over or within 3 (three) metres either side of the centre line of the public sewer i.e. a protected strip width of 6 (six) metres, that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.
19. Prior to commencement of development hereby approved a surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall detail how the issues raised in Network Rails response dated 28.01.2021 in relation to surface water drainage and the adjacent railway line are to be addressed. The development shall thereafter be carried out in accordance with the approved strategy.
20. Prior to the commencement of development hereby approved a construction management plan detailing safety procedures for development adjacent to a railway line shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details. The management plan shall include, but not be limited to, details relating to the fail safe operation and storage of cranes, plant, vehicles and materials.
21. Prior to the occupation of the development, hereby approved, details of a trespass proof fence shall be submitted to and approved in writing by the

Local Planning Authority. The details shall include the height, type, appearance, colour, positioning, timing for installation and details of future maintenance of the fence. The fence shall be constructed prior to the first occupation of the development and shall be thereafter retained in accordance with the approved details.

22. If excavations/piling/buildings are to be located within 10m of the railway boundary a method statement shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The method statement shall include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan.
23. No trees or shrubs shall be planted within 10m of the Network Rail boundary fencing to the south of the site unless a scheme is first submitted to and approved in writing by the Local Planning Authority detailing, but not limited to, the species, siting and future maintenance of the planting. Any planting within the 10m buffer zone shall be carried out and maintained in accordance with the approved details.
24. Prior to commencement of the development hereby approved a Biodiversity scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail proposals for how the development will achieve a measurable net gain for biodiversity including on site provision for habitats. The development shall thereafter be carried out in accordance with the approved details
25. No trees shall be removed until a further inspection for bats has been conducted by a suitably qualified Ecologist and the results submitted to and approved in writing by the Local Planning Authority. Should any bat roosts or evidence of such be found within trees proposals in relation to the roosts shall be submitted for approval in writing to the Local Planning Authority along with the findings. Thereafter the development shall be carried out in accordance with the approved details.
26. Site clearance works including vegetation and building demolition shall be undertaken between September and late February to avoid the bird nesting season (March-August) otherwise approved in writing by the Local Planning Authority. Any nests identified during vegetation clearance shall be protected until the young have fledged.
27. No above ground construction work shall be undertaken until a scheme has been submitted and the Local Planning Authority has approved in writing the details of the Public Open Space within the site including: a) The type and nature of the facilities to be provided within the POS including street furniture, play equipment etc; b) The arrangements the developer shall make to ensure that the Public Open Space is laid out and completed during the course of the development; c) The arrangements the developer shall make for the future maintenance of the Public Open Space; d) The open space shall be completed in accordance with the approved scheme and retained thereafter

28. The development hereby approved shall comply with the requirements of the Council's Supplementary Planning Guidance on Housing Size, Type and Tenure or otherwise with an identified local need in the Bedale sub-area, which has first been agreed with the Local Planning Authority.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.
3. To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.
4. To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.
5. To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.
6. In the interests of highway safety.
7. To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.
8. To ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.
9. To establish measures to encourage more sustainable non-car modes of transport.
10. In the interest of highways safety and public amenity.
11. To ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk.
12. To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere.
13. To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system.
14. To accommodate flows in storm events and allow for future maintenance

15. To prevent flooding to properties during extreme flood events and to mitigate against the risk of flooding on and off the site.
16. In the interest of satisfactory and sustainable drainage.
17. To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.
18. In order to allow sufficient access for maintenance and repair work at all times.
19. To ensure that the development does not cause drainage/flooding issues on the adjacent railway line in the interest of public safety.
20. In the interest of public safety and the safe operation of the railway line.
21. In the interest of public safety in discouraging trespass on the railway line.
22. In the interest of public safety and the safe operation of the railway.
23. In the interest of public safety and the safe operation of the railway.
24. In the interest of biodiversity.
25. In the interest of biodiversity.
26. In the interest of biodiversity.
27. In order to comply with the requirements of Core Strategy Policy CP19 and LDF Policy DP37.
28. To ensure that the proposed development meets local need for housing and to ensure that the proposals accord with CP8.



**Parish: Bagby**  
Ward: Bagby & Thorntons  
**2**

Committee Date : 21 October 2021  
Officer dealing : Mr Craig Allison  
Target Date: 18 May 2021

**21/00668/FUL**

**Retrospective extension to Hangar A and proposed hard standing adjacent to Hangar A**

**At: Land to the North of the Airfield, Bagby, North Yorkshire**

**For: Mr M Scott**

**The proposal is presented to Planning Committee as the site is of significant public interest**

**1.0 Site, context and proposal**

- 1.1 Bagby Airfield occupies a piece of land to the south and south west of the village of Bagby. The land lies east of the A19 and is currently accessed via a newly constructed access track that leaves the Main Street of Bagby to the west of the village. The site is about 500m from the southern edge of the village of Bagby.
- 1.2 The Airfield occupies 15.6 hectares. The land is in use for the purposes of operating an airfield. Some of the surrounding land is fallow and other parts of the application site continue to be used for arable agricultural purposes.
- 1.3 Boundaries to the land around the Airfield are formed by hedges of varied species and heights. The north, south and west boundaries have substantial hedges, the eastern end of the airfield is not fully bounded by hedgerows. Local landform allows some views of the central and western end of the airfield from viewpoints to the west but changes in ground levels, hedgerows and trees shield the remainder of the airfield from public view.
- 1.4 In addition to the relationship with Bagby, there are dwellings to the south west, south and south east of the application site and notably in the vicinity of the village of Great Thirkleby and Thirkleby Hall Caravan Park (630 metres to the south east) that are potentially affected by activities at the airfield (in particular noise).
- 1.5 Beyond the boundaries of the application site of the Airfield the land is in agricultural use except for the children's play area on Bagby Lane, which is located beyond the northern edge of the Airfield land.
- 1.6 Planning permission was granted on the 30 July 2019 under planning reference 16/02240/FUL, for a range of developments on the Airfield including an extension to Hangar A this is detailed in full at 2.1 below. The original approval included the extension to Hangar A northwards by 4.7 metres with the extension visible to the north east elevation. However, the extension to Hangar A as built is 12 metres longer than the approved length which extends Hangar A's depth to a total of 22.21 metres. The extended hangar provides an additional 155.75 sqm of internal space. The application seeks retrospective planning permission for the extension to Hangar A, along with hardstanding directly in front of the Hangar A to link up with the existing geo textile track. This will result in an area of approximately 200 square metres of hardstanding created.

1.7 The development falls below the thresholds of Schedule 1 and 2 of the EIA Regulations (10(f) the area of the works does not exceed 1 hectare) and an Environmental Statement is not required.

## **2.0 Relevant planning history**

- 2.1 16/02240/FUL - Change of use and external alterations of the engineering building to be used as a clubhouse and control tower, erection of a new tractor shed, erection of a new hangar, formation of a new access drive, the introduction of hard and soft landscaping and amended on 14 March 2018 to include the creation of a fixed fuel facility and the use of Hangar B for aircraft maintenance. Works include the demolition of the existing clubhouse, control tower, hangars and storage buildings and partial demolition of one other hangar. Air Movements to be capped at a maximum of 8,440 per annum. – Approved 30 July 2019.
- 2.2 18/00524/FUL - Retrospective application for the temporary siting of a portable aircraft engineer's office and document storage cabin – Approved 30 July 2019.
- 2.3 20/00766/MRC - Application for variation of condition 1 for approved application 18/00524/FUL - The condition to be varied to extend the date to which the planning permission is valid until for one year from the approval of this application, or upon completion of Hangar B. – Approved 5 June 2020. The temporary planning permission expired on the 5 June 2021.
- 2.4 21/00081/FUL - Retrospective application for an access road off Bagby lane to provide access to the airfield – Approved 7 June 2021
- 2.5 21/01058/FUL - The retention of 2 temporary hangers on site for a use for aircraft storage and ancillary storage of airfield machinery and equipment for a period of 24 months – Pending Consideration
- 2.6 21/01243/FUL - Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage – Pending Consideration
- 2.7 21/01709/FUL - Retrospective application for hardstanding, associated drainage, door and walkway to Hangar C1 and proposed lean-to for office to Hangar B – Pending Consideration

## **3.0 Relevant planning policies**

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development

Core Strategy CP2 - Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP15 – Rural Regeneration  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP1 - Protecting amenity  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP16 – Specific measures to assist the economy and employment  
Development Policies DP25 – Rural Employment  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 – General design

3.3 Hambleton emerging Local Plan was considered at Examination in Public during Oct-Nov 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>  
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

3.4 National policy and advice is contained in the following documents:

National Planning Policy Framework 2021

Aviation Policy Framework published 22 March 2013

Noise Policy Statement for England March 2010 from the Department for Environment, Food and Rural Affairs

National Planning Practice Guidance

General Aviation Strategy published by the Department for Transport March 2015

Noise Considerations at General Aviation (GA) Aerodromes published by the CAA (Civil Aviation Authority) November 2012

“General Aviation Roadmap: spring 2021” from the Department for Transport Spring 2021

3.5 Other non-Governmental guidance:

General Aviation Awareness Council - General aviation sector-led guidance on planning in relation to aerodromes for local planning authorities, aerodrome owners and aerodrome operators, prepared by the GAAC, April 2015.

3.6 The Local Development Framework is the Development Plan for Hambleton and contains policy that is pertinent to the determination of the application. The NPPF and the Aviation Policy Framework, the Noise Policy Statements, the Planning Practice Guidance, CAA guidance and General Aviation Strategy and GAAC guidance are material considerations.

## **4.0 Consultations**

- 4.1 Bagby & Balk Parish Council – Recommend that the application is refused. The Parish Council state:

“Only when you consider all these applications together, can you see the bigger picture for a much larger, busier airport which will bring additional noise to the village of Bagby. An EIA exercise must be carried out to screen proposals on a cumulative basis.

Recently, there has been a large increase in flights taking off, uphill towards the village and residents are noticing the increased noise. The monitoring system is long overdue and there is no control over activities at the airfield.

Bagby and Balk Parish Council feel Hambleton District Council are negligent in continuing to allow this creeping development by way of retrospective applications.”

A full copy of the representations of the Bagby Parish Council are appended to this report.

- 4.2 Thirkleby Parish Council – No comments received
- 4.3 Public comments – A site notice has been displayed and neighbours consulted. Representation has been received from Action for Refusal noting that the application is invalid, that an Environmental Statement should have been prepared and the submitted business case is inadequate and the application should be refused. A full copy of the representation is appended to this report.

## **5.0 Analysis**

- 5.1 The main issues to consider are: (i) the principle of extending Hangar A and the construction of hardstanding; (ii) the impact of the development on the character and appearance of the area; (iii) the impact of the development on the amenity of the area.

The Principle of Development

- 5.2 Policy CP1 of the Core Strategy states development that would significantly harm the natural or built environment or that would generate an adverse traffic impact will not be permitted. Proposals would be supported if they promote and encourage sustainable development.
- 5.3 As the site is located outside of the settlement boundary of Bagby, within open countryside, Policies CP4 and DP9 are of relevance. Policies CP4 and DP9 state that development will only be permitted beyond the development limits in exceptional cases, and where the development is within the scope of 6 criteria:
- It is necessary to meet the needs of agriculture, recreation, tourism and other enterprises with an essential requirement to be located in the countryside and will help support a sustainable rural economy;
  - It is necessary to secure a significant improvement to the environment or the conservation of a feature acknowledged importance;

- It would provide affordable housing or community facilities which meet a local need, where that need cannot be met in a settlement within the hierarchy;
- It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing;
- It would make provision for renewable energy generation, of a scale and design appropriate to its location;
- It would support the social and economic regeneration of rural areas.

CP4 also requires that “In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications”.

- 5.4 The operation of an airfield will normally require a countryside location due to the amount of land required and for separation distance from dwellings to attenuate noise. Bagby Airfield is in a countryside location and the business of operating at the airfield, together with enterprises which depend upon a physically close relationship to the Airfield and that will help support a sustainable rural economy, can take support from policy CP4. The development proposed has not been shown to be necessary to meet the needs of any business at the Airfield and cannot take support from CP4. The Hangar in its revised position can now accommodate more aircraft, the applicant notes five can be fitted within the hangar, of which two are considered longer term project build/refurbishment aircraft as stated within the applicants Addendum to the Business Case. It is stated that this profile/utilisation by this development results in no or little additional movements, whilst the retaining hobbyist building/refurbishment skills at this site will be helpful in fostering and retaining core aviation engineering skills. The addendum to the business case fails to show that the development is essential, and the development is therefore contrary to CP4.
- 5.5 The use of Hangar A is controlled by condition 29 of the planning permission 16/02240/FUL that states that Hangar A “...shall not be used other than for the purpose of aircraft storage and ancillary maintenance of aircraft for the purposes of keeping aircraft airworthy. No commercial maintenance activities are to be permitted within hangars A, C1, E, F, G and H.” The application does not include a proposal to vary the condition 29 and the use for “longer term project build/refurbishment” is beyond the scope of the permitted use.

#### The Business Case

- 5.6 The Development Plan supports business development in the countryside where it complies with a series of criteria. The leading policy of the LDF is Policy CP15 which details how the social and economic needs of rural communities will be supported. The policy sets examples of proposals that will be supported. Pertinent to this proposal is the support for:
- i) Retention or expansion of appropriate businesses outside of the Service Centre and Service Villages;
  - ii) Appropriate tourism related initiatives, including schemes which improve the accessibility of tourist assets both within and outside the District; and
  - iii) Recreation uses appropriate to a countryside location.

- 5.7 In all cases development should be designed to be sustainable, consistent with the requirements of CP1 and CP17, should not conflict with environmental protection and nature conservation policies of the LDF but should seek to enhance the environment, and should provide any necessary mitigating or compensatory measure to address harmful impacts.
- 5.8 LDF Policy DP25 sets out support for rural employment proposals. All five criteria of Policy DP25 need to be met to enable the development to be supported by this Policy. This requires proposals to be
- i) small in scale,
  - ii) comprise conversion or re-use or appropriate replacement or extensions;
  - iii) be incapable of location within a settlement in the hierarchy at CP4;
  - iv) be supported by a business case; and
  - v) not harm the economy of the service centre.
- 5.9 The extension to Hangar A now extends northward by 12 metres and the hardstanding is 200 square metres in size, as such, the development is small in scale when viewed in context of the site and its use. The proposal meets the first test of DP25.
- 5.10 The proposal will consist of the appropriate extension of Hangar A and the hardstanding to the front of it. The proposal meets the second test of DP25.
- 5.11 It was demonstrated in the application approved (Reference: 16/02240/FUL) that the location of the Airfield outside of a settlement with Development Limits is acceptable. The development as built and proposed, cannot be accommodated within development limits given that the airfield is located outside the built confines of any settlement. The principle of extending Hangar A was found acceptable previously and therefore, this modest extension on the Airfield would be acceptable within this location. The proposal meets the third test of DP25.
- 5.12 The current unauthorised works to Hangar A has created an additional 238 square metres of additional aircraft storage. The approved extension to Hangar A created an additional 72 square metres and therefore the unauthorised works result in a net increase in storage of aircraft space of 165 square metres. (At the time of the application (Planning Reference: 16/02240/FUL), the submitted information indicated that the hangars are not full, housing up to 33 aircraft currently. Indicating an increase to 40 aircraft upon completion of the development resulting in a 21% uplift in based aircraft.) The extension to the hangar to accommodate more aircraft must be expected to result in an increase in movements. The increase of hangar space means that the planning conditions controls set capping the movements are more likely to be reached more often and result in greater levels of disturbance to the environment than if the movements did not occur.
- 5.13 At the time of the planning application (16/02240/FUL) an assessment was undertaken of the number of aircraft movements necessary for the business to be viable. The business viability was assessed on the basis of mainly: the general arrangement of the airfield, the runway length, surfacing, gradient, the facilities on the ground and the ability to generate revenue (landing fees, fuel sales, food and drink, overnight accommodation, hangar fees). The viability of the business was balanced against the assessed historic levels of aircraft movements and the impact

of the aircraft movements upon the amenity of the local community. Conditions were imposed and planning obligation agreed to limit the impact upon the local community. The approval of expansion of the ground facilities without an appropriate business case is contrary to the fourth test of Policy DP25 Without the appropriate business case no assessment of viability as a consequence of the increased hangar space can be made. Whilst ability to accommodate more aircraft could generate more revenue, it could also increase the investment, maintenance and operational costs and result in pressure for uplifts in numbers of movements, and relaxation of other controls set out in the 16/02240/FUL permission.

- 5.14 The business case for the proposal has been reviewed by York Aviation, consultants to the Council. This notes the requirement in the NPPF (para 106 f) to: recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy. York Aviation find that “none of the applications provide the clear and concise justifications which would be expected for development at an airfield.” The conclusion reached by York Aviation is that:

Overall, we believe that the applications do not quite provide enough information to allow a planning decision. The extra information should be easy to provide and would need to focus on justifying why these developments are now needed to support the business or economic case for the Facility (outlining both financial and potential economic impacts).

Importantly however, we believe that the overall planning conditions imposed as a result of the 2019 decision would remain valid and would prevent additional activity, meaning that any amended nature of operations from each of the developments under consideration would have to be contained within the same overall controls.

- 5.15 The owner has not supplied any of the aircraft movement data required by the planning conditions of the permission (16/02240/FUL). The consented scheme has not been fully implemented, notably a start has not been made on the consented scheme for the new clubhouse. It is therefore not possible to assess whether the consented scheme will result in the numbers of movements identified to achieve viability, as assessed at the time of the 2016 application, with or without the additional development now proposed. The owner has not supplied an appropriate business case and therefore fails the test of DP25. There is no evidence of a recalculation of viability of the airfield or any detail of the reason why the hangar has been extended beyond the limits set by the approved drawings. In the absence of any evidence regarding the business case or operational need for the extended hangar and the impact it may have on the viability of the airfield it is a risk to allow the facilities to be extended that may result in an incremental change to the scale of operations at the airfield and result in a case on viability grounds to vary the conditions that have been imposed (and agreed planning obligation) in order to safeguard amenity.
- 5.16 During the course of the application, an updated Business Case was requested to assess how the increase in size to Hangar A would affect the viability of the business. An addendum has been provided however no explanation of why the development is necessary to achieve the objectives of the previously accepted proposals has been assessed. Within the applicants Addendum to the Business case the following is stated as the reason why Hangar A was extended,

“The extension to Hangar A and the changes to the hardstanding as originally approved are a result of the need to store an additional two aircraft in Hangar A. Internal storage of aircraft has been raised as a clear need at the Airfield during the winter months with the adverse weather conditions experienced recently and through the COVID-19 restrictions. The hardstanding proposed to the entrance of the hangar will ensure the Hangar is safe, accessible and functional for the use of Aircraft entering and leaving Hangar A.”

However, no further explanation or detail has been provided to indicate how the increase in size of the hangar would affect the viability of the business.

- 5.17 The proposal has not been shown to meet the fourth test of DP25.
- 5.18 The proposal is to support the use of the Airfield. The development of an airfield cannot be accommodated in a service centre and therefore, the development would not impact the economy of any service centres. The proposal meets the fifth test of DP25. As policy DP25 requires compliance with all 5 tests the proposal fails to meet the requirements of Policy DP25.
- 5.19 The development would not result in any significant harm to the natural or built environment, with the extension being no greater in size than the neighbouring hangars and maintenance facilities on site. The hardstanding proposed spans the width of the extended Hangar A measuring an area of 200 square metres and can be considered operationally appropriate for the extended Hangar A. However, when assessing the proposal against the key parts of Policy DP25 it is considered that it fails to meet the fourth test as there is no supporting appropriate business case. It is therefore considered fails to meet all the tests of Policy DP25 and is therefore contrary to the Council’s Local Plan Policies.

#### The Impact on the Character of the Surrounding Area

- 5.20 Policy CP16 of the Core Strategy states that developments will be supported where they preserve and enhance the District’s natural and man-made assets. Development will not be supported which have a detrimental impact upon the interests of natural or man-made assets. Any necessary mitigation or compensatory measures must be provided to address potential harmful implications of development.
- 5.21 Policy CP17 of the Core Strategy states that support will be given for proposals that are consistent with the LDF’s detailed design policies and meet all the following requirements: provide an attractive, functional, accessible, safe and low maintenance development; respect and enhance the local context and its special qualities, including urban design, landscape, social activities and historic environment, incorporate public art where appropriate; optimise the potential of the site; adopt sustainable construction principles.
- 5.22 Policy DP30 states that the openness, intrinsic character and quality of the District’s Landscape will be respected and where possible enhanced.
- 5.23 The extension to Hangar A on land that was formerly taxi-way and surrounding grass does not result in any significant detrimental impact upon natural or man-made assets. The hangar has been constructed to be low maintenance with the



hardstanding proposed to be low maintenance, providing a safe area to access Hangar A. Whilst Hangar A and the hardstanding are not typically 'attractive' the materials used for the retrospective extension and hardstanding will reflect those existing on the site. Furthermore, the extension to Hangar A falls in line within the layout, design and materials of the other hangars on the site and sits comfortably within the landscape against the neighbouring maintenance hangar, and is therefore considered that the extension does not cause any harm to the character or appearance of the surrounding area and meets the tests of CP16, CP17 and DP30.

#### Impact on Amenity of the Area

- 5.24 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.25 The extension to Hangar A and proposed hardstanding is located a significant distance from residential properties in the village of Bagby (about 500m). The development would not result in any impacts to residential properties in terms of affecting amenity or privacy, nor would it increase pollution or odour impacts on residents in the village of Bagby. In regard to noise impact on local residents, within the Addendum it is stated that one of the reasons for extending Hangar A was to enable hobbyists to undertake self-build projects on their own aircraft. However, within the original application Hangar A was granted consent for storage of aircraft only, and therefore if engineering works are to occur within the hangar this would result in some noise impact being created from this hangar. With no noise mitigation measures proposed it is considered that this would have the potential to cause some harmful noise impacts and a loss of residential amenity. As noted above use other than for storage would breach the terms of condition 29 of the permission. On the basis of the details set out in the Addendum to Business Case the development is contrary to Policy DP1 of the Local Plan.

#### Planning Balance

- 5.26 The lack of information regarding the need for the retrospective extension to Hangar A and proposed hardstanding prevents assessment of whether the development would support the local economy and whether in turn this would help sustain rural communities. No weight can be given to economic benefits in any planning balance exercise. The development to extend the hangar does not cause any significant impact on the character and appearance of the area or harm to the environment.
- 5.27 No supporting information has been provided to establish whether the development would result in an increase in activities at the Airfield which would also lead to an impact on amenity. It is therefore considered that the development is contrary to Policy DP1.
- 5.28 The policy requirements of the adopted Development Plan have not been met subsequently the application is recommended for refusal.

## 6.0 Recommendation

That subject to any outstanding consultations the application be **REFUSED** for the following reason(s):

1. The proposal is contrary to the Local Development Framework Policies CP1 and DP25 as an appropriate business case has not been supplied. Any economic benefit arising from the increased capacity of the aircraft hangar cannot be properly assessed and the potential harm to the amenity of the local population arising from the proposal is not outweighed by any known economic or other benefit.
2. The proposal is contrary to the Local Development Framework Policies CP1 and DP1 as no noise control or mitigation measures have been provided to address the potential harm to the amenity of the local population arising from the use of the building for aeronautical engineering purposes identified in the Addendum to Business Case.

Comments of Bagby and Balk Parish Council

21/00668/FUL Retrospective extension to Hangar A and proposed hard standing adjacent to Hangar A

Dear Mr Allison,

Thank you for giving Bagby and Balk Parish Council the opportunity to comment on the above application. However, Councillors feel that Hambleton District Council does not actually take any notice of the opinion of the Parish Council, or residents comments, when making a decision on a planning application and therefore it is completely pointless submitting a response to any application in relation to the airfield.

The applicant must consider HDC, the PC and residents of Bagby completely naive if he thinks they would believe the oversize of the hanger is a contractor's error. No contractor would build a steel frame larger than the plans due to the cost and their reputation.

This is one of the poorest excuses for planning infringement at the airfield to date and if HDC recheck previous excuses provided by the applicant, the PC believes it has actually been used before.

The PC feels this process has been a deliberate act to allow the hanger to accommodate larger planes and indeed this wider hangarage has already been advertised by the applicant.

This application must not be considered on its own, it's clearly part of a much bigger plan. There is also an application to keep the "temporary" hangers which the PC did predict would happen as the hangers were very much permanent when built . HDC must also consider the applications for runway extensions and unnecessary turning circles which are all leading to business usage 24/7 all year round.

Only when you consider all these applications together, can you see the bigger picture for a much larger, busier airport which will bring additional noise to the village of Bagby.

An EIA exercise must be carried out to screen proposals on a cumulative basis.

Recently, there has been a large increase in flights taking off, uphill towards the village and residents are noticing the increased noise. The monitoring system is long overdue and there is no control over activities at the airfield.

Bagby and Balk Parish Council feel Hambleton District Council are negligent in continuing to allow this creeping development by way of retrospective applications.

It is an absolute disgrace that the applicant is allowed to put in retrospective applications over and over again. No member of the public would be allowed to do this, yet Mr Scott uses this tactic repeatedly and the planning decision always goes his way. This should not be allowed to continue.

The Parish Council looks forward to hearing your decision on this application and hopes that for once, HDC takes notice of its residents and refuses the application.

Kind regards Sandra Langthorne

Clerk to Bagby and Balk Parish Council

## Response from Action 4 Refusal

This is the response of Action For refusal to an invitation to comment on two retrospective planning applications in relation to works to the runway and extension of Hangar A at Bagby airfield . There are other retrospective applications in the pipeline but only these two application are to be considered for decision at the next Planning Committee meeting

### 1. Summary and Conclusion

(a) These two retrospective applications are obviously invalid and should not be before the Planning Committee for consideration.

(b) The officer has admitted that no indirect or cumulative impact assessment has been carried out prior to the validation decision . Had this been done , and the applications not looked at in isolation, an Environmental Statement would have been required prior to validation.

(c) The so called Addendum to the Business case forwarded by Barton Wilmore and the contradictory but ultimately encouraging positive steer put in it by York Aviation is contradicted by the submitted business case itself , the airfield's own public statements in other contexts including what it says on its own website. The only business case put forward relates to the sole traders Graham and Matthew Fox rather than the airfield itself and should be disregarded on that ground alone ; properly speaking there is no business case at all to go with the application. But even a business case for the airfield's major commercial tenant could be considered in an application made by the airfield , it is wholly inadequate as it is based on statements that are manifestly wrong : the applications should not have been validated.

(d) Should the Committee disagree and hold that the application is nevertheless valid, it has no choice but to reject the retrospective applications as any approval would be clearly defective.

### 3. The absence of an Environmental Statement

(a) The applications are presented in isolation and characterised as a repair operation to the runway and a necessary development to Hangar A . Even if this were to be true ( which it is not , as both will facilitate the landing and maintenance of heavier and noisier planes) Tim Wood admitted to A4R on September 17 that all that has been done is a box tick exercise on a two page pro forma to enable the planning department to conclude that the impact of the developments are not 'substantial' and therefore that an Environmental Statement is not required.

(b) Not for the first time, no indirect and cumulative assessment has been carried out. Any such real world assessment would have had to take into account wholesale non compliance with planning conditions, so called non material variations that the officials wish to permit and other retrospective applications both actual and prospective to cater for unauthorised development carried out by the airfield.

(c) The failure to adopt a holistic approach which is required by law, results in entirely the wrong baseline being adopted for consideration of these retrospective applications. An Environmental Statement should have preceded validation; it is a fatal defect and means that the applications should never have been validated.

(d) A proper Environmental Statement is required for very good reasons anyway since for the very first time a safety audit would have been carried out. The airfield still cannot afford a manager and in recent months children have been sighted on the fuel facility, the runway area has been used for go carting and there has been a reported near -miss incident. These are serious matters which require consideration prior to validation.

#### 4 the so called Business Case

(a).LDF policy DP 25 requires that an 'appropriate' business case be submitted in support of these proposals. Without such a business case, these applications would have not been validated and would have been thrown out. Tim Wood did ask that a business case be submitted but this was only in relation to the Hangar A retrospective application. This was far too narrow a request; with two days to spare before the deadline for submission, an Addendum was produced by the airfield's Peter Bondar and forwarded by Barton Wilmore . The Addendum contained an attempted business case not just in respect of Hangar A but also in relation to runway alterations 21/01243, retention of the temporary hangars and other applications yet to be submitted. The Addendum does not amount to an "appropriate " business case since it is wholly related to FAE the major commercial tenant. There is no attempt to relate any benefits that might be derived from the developments for FAE to the airfield as a whole. As such the application lacks a business case and should never have been validated.

(b) Should it be assumed (as it would have to be) that what is good for FAE is good for the airfield and that the formal defect can be disregarded( a legal error ) and therefore that a formally valid application actually exists, the Planning Committee should note that in the ' business background' in the Addendum ( which was submitted in July)Bondar made the following statement :-

'Fox Aviation(FAE) went through a challenging period as a result of regulatory oversight( the reference here is to the withdrawal of its licence by the CAA!) and subsequent mandated changes. The paradoxical results of these changes in the wider general aviation market has resulted in a greater demand for FAE resources....FAE NOW(our emphasis) have 10 fulltime staff plus 4 part time staff as well as apprentice and training based operations - a much broader operation than was predicted".

(c)"Paradoxical" does not really capture the reality of the situation for in the section headed "current situation " in the Addendum Bondar describes the period March 2020 to 2021 as being ' very limited' due to Covid and Brexit.This negative message is reinforced by Bondar at the improperly constituted Consultative Committee on the 5 August as follows ;-

'Overall general aviation activity remains lower than pre - pandemic and pre Brexit levels; as a result of a number of changes affecting all aspects of UK aviation it is suspected that many occasional flyers/ operators have simply not taken place with all the changes and have in part suspended their operations'

(d)Quite how the 'doom of gloom' of this latter statement( apparently written in April) might be reconciled with the ' all systems go' message in the Addendum in July would be a challenging exercise to put it mildly. Had business at Fox suddenly bucked the desperate situation in the market overall ( Tees side has just recorded an annual loss of 14 million sterling after all ) between March and August of 2021 one might have expected Bondar to have made a positive announcement at the Consultative Committee meeting in August.Such a turnaround is implausible in the extreme. However no reconciliation is in fact possible because the statements in relation to 10 permanent positions and 4 part time staff are simply wrong . According to the Fox website ( which is not a company it should be stressed)there are actually only 6 employees. Of these -an administrator - has a connection with the owner, one has no maintenance qualification, one is based in Beverley and semi retired .With only 600 movements in the first quarter, the prospects of employment actually increasing from this very low base are not exactly promising. What is more likely is that there will be a reduction in employment if that has not occurred already.

(e) Action for Refusal has pointed this fundamental factual discrepancy on employment numbers to HDC and Barton Wilmore and has been met with a deafening silence. The Planning Committee

is therefore being asked to take seriously a business case put forward on behalf of a couple of sole traders who will necessarily have very limited access to outside capital, one of whom is coming up to retirement and has had his licence removed by the CAA in the past and the other ( his son ) who has no aircraft maintenance qualifications at all . What is more, the list of resident aircraft finally submitted pursuant to a planning condition (well in arrears as usual) makes residence claims that are manifestly incorrect thus giving an inaccurate picture of the number of planes at the airfield and therefore the need for extended hangarage. Truly this is a "business " that is going nowhere fast in the economic conditions that Bondar describes so eloquently.

(f)Not for the first time, York Aviation 's commentary fails to scratch even the surface of claims that are made. It will be recalled that in its report on the original business case at paragraph 4.126 it expressed doubt as to the employment benefits predicted by the airfield because they were not " robust enough" ( sic) .In spite of this concern( which turned out to be entirely justified) it was prepared to conclude based on its supposed expertise that there was a reasonable chance of the promised developments occurring - a conclusion that officers were only too happy to rely on in their report recommending acceptance. In the Addendum the same shoddy 'reasoning' is apparent ; thus their "high level review" (sic)says that " none of the applications provide a clear and concise justification which would be expected for the development of an airfield". And yet these experts conclude at the end of their commentary that these justifications can be provided relatively easily !

(g) Quite how this can be done in the light of Bondar's statement about the general aviation market and his comments to the Consultative Committee is very difficult to imagine. Whatever level York Aviation operate at you would have expected them to discuss Bondar's remarks in the Addendum itself and the evidence of only 600 hundred movements even if it is too much to expect them to look at the website or read his corroborative negative remarks at the Consultative Committee only a couple of months ago. Apart from a passing reference to Covid there is little or no attempt to examine the business case in the light of the state of the general aviation market at all . This is remarkable deficiency in a report from supposed 'experts'.

(h)Even more remarkable is the implicit working baseline assumption underpinning their report that the conditions of the original permission are being observed and this compliance will continue. The Planning Committee and everyone else with any interest in this planning debacle knows full well that this is a wholly inaccurate assumption. In fact the conditions are mostly being ignored and new unauthorised developments seem to come to light all the time .York Aviation's opinion is worthless in the light of all these defects . If the object of commissioning it ( at residents expense as ever) was to provide officers with some cover for a positive recommendation in the very tight corner in which their maladministration has placed them, the money spent was ( once again) completely wasted.

(i)So defective a "business case" cannot possibly be "appropriate' as required by DP 25. The decision to validate the application was clearly wrong as the Addendum is a nullity. If the Committee disagrees, there is only one available option and that is rejection of these retrospective applications accompanied by long overdue court action in respect of the many continuing breaches of condition.

**ACTION FOR REFUSAL**

**Parish: Bagby**  
Ward: Bagby & Thorntons  
**3**

Committee Date : 21 October 2021  
Officer dealing : Mr Craig Allison  
Target Date: 23 June 2021

**21/01058/FUL**

**The retention of 2 temporary hangers on site for a use for aircraft storage and ancillary storage of airfield machinery and equipment for a period of 24 months  
At: Land to the North of the Airfield, Bagby, North Yorkshire  
For: Mr M Scott**

**The proposal is presented to Planning Committee as the site is of significant public interest**

### **1.0 Site, context and proposal**

- 1.1 Bagby Airfield occupies a piece of land to the south and south west of the village of Bagby. The land lies east of the A19 and is currently accessed via a newly constructed access track that leaves the Main Street of Bagby to the west of the village. The site is about 500m from the southern edge of the village of Bagby.
- 1.2 The Airfield occupies 15.6 hectares. The land is in use for the purposes of operating an airfield. Some of the surrounding land is fallow and other parts of the application site continue to be used for arable agricultural purposes.
- 1.3 Boundaries to the land around the Airfield are formed by hedges of varied species and heights. The north, south and west boundaries have substantial hedges, the eastern end of the airfield is not fully bounded by hedgerows. Local landform allows some views of the central and western end of the airfield from viewpoints to the west but changes in ground levels, hedgerows and trees shield the remainder of the airfield from public view.
- 1.4 In addition to the relationship with Bagby, there are dwellings to the south west, south and south east of the application site and notably in the vicinity of the village of Great Thirkleby and Thirkleby Hall Caravan Park (630 metres to the south east) that are potentially affected by activities at the airfield (in particular noise).
- 1.5 Beyond the boundaries of the application site of the Airfield the land is in agricultural use except for the children's play area on Bagby Lane, which is located beyond the northern edge of the Airfield land.
- 1.6 On the 15 January 2020, the Council served the owner with a Planning Enforcement Notice under Section 171A of the Town and Country Planning Act 1990 (as amended) to seek the removal of the temporary hangars. The applicant appealed against the service of an enforcement notice (Appeal Reference: APP/G2713/C/20/3246912). The Planning Inspector on the 25 August 2020, subsequently granted planning permission, to which the following condition was imposed:

"The use hereby permitted shall be for a limited period until: either 31 December 2021; or until one month after the completion of the works to create Hangar C1 (as approved by application reference 16/02240/FUL), whichever occurs first. The

buildings hereby permitted shall be removed and the land restored to its former condition on or before 31 January 2022.”

Works have been completed on Hangar C1 and is in use for the storage of aircraft. Therefore the use of the temporary hangars for the storage of aircraft should cease and the temporary hangars are required to be removed from the land and the land restored by the 31 January 2022. The applicant seeks permission to retain the temporary hangars for a further 24 months from the date of the decision of this application for storage of equipment associated with the Airfield and for the storage of aircraft.

- 1.7 The development falls below the thresholds of Schedule 1 and 2 of the EIA Regulations (10(f) the area of the works does not exceed 1 hectare) and an Environmental Statement is not required.

## **2.0 Relevant planning history**

- 2.1 16/02240/FUL - Change of use and external alterations of the engineering building to be used as a clubhouse and control tower, erection of a new tractor shed, erection of a new hangar, formation of a new access drive, the introduction of hard and soft landscaping and amended on 14 March 2018 to include the creation of a fixed fuel facility and the use of Hangar B for aircraft maintenance. Works include the demolition of the existing clubhouse, control tower, hangars and storage buildings and partial demolition of one other hangar. Air Movements to be capped at a maximum of 8,440 per annum. – Approved 30 July 2019.
- 2.2 18/00524/FUL - Retrospective application for the temporary siting of a portable aircraft engineer's office and document storage cabin – Approved 30 July 2019.
- 2.3 20/00766/MRC - Application for variation of condition 1 for approved application 18/00524/FUL - The condition to be varied to extend the date to which the planning permission is valid until for one year from the approval of this application, or upon completion of Hangar B. – Approved 5 June 2020. The temporary planning permission expires on the 5 June 2021.
- 2.4 21/00081/FUL - Retrospective application for an access road off Bagby lane to provide access to the airfield – Approved 7 June 2021
- 2.5 21/01058/FUL - The retention of 2 temporary hangers on site for a use for aircraft storage and ancillary storage of airfield machinery and equipment for a period of 24 months – Pending Consideration
- 2.6 21/01243/FUL - Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage – Pending Consideration
- 2.7 21/01709/FUL - Retrospective application for hardstanding, associated drainage, door and walkway to Hangar C1 and proposed lean-to for office to Hangar B – Pending Consideration



### **3.0 Relevant planning policies**

3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP15 – Rural Regeneration

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Development Policies DP1 - Protecting amenity

Development Policies DP9 - Development outside Development Limits

Development Policies DP16 – Specific measures to assist the economy and employment

Development Policies DP25 – Rural Employment

Development Policies DP30 - Protecting the character and appearance of the countryside

Development Policies DP32 – General design

3.3 Hambleton emerging Local Plan was considered at Examination in Public during Oct-Nov 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>  
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

3.4 National policy and advice is contained in the following documents:

National Planning Policy Framework 2021

Aviation Policy Framework published 22 March 2013

Noise Policy Statement for England March 2010 from the Department for Environment, Food and Rural Affairs

National Planning Practice Guidance

General Aviation Strategy published by the Department for Transport March 2015

Noise Considerations at General Aviation (GA) Aerodromes published by the CAA (Civil Aviation Authority) November 2012

“General Aviation Roadmap: spring 2021” from the Department for Transport Spring 2021

3.5 Other non-Governmental guidance:

General Aviation Awareness Council - General aviation sector-led guidance on planning in relation to aerodromes for local planning authorities, aerodrome owners and aerodrome operators, prepared by the GAAC, April 2015.

- 3.6 The Local Development Framework is the Development Plan for Hambleton and contains policy that is pertinent to the determination of the application. The NPPF and the Aviation Policy Framework, the Noise Policy Statements, the Planning Practice Guidance, CAA guidance and General Aviation Strategy and GAAC guidance are material considerations.

#### **4.0 Consultations**

- 4.1 Bagby & Balk Parish Council – No comments received
- 4.2 Thirkleby Parish Council – No comments received
- 4.3 Environmental Health – Have raised no objections to the proposal
- 4.4 North Yorkshire County Council (Highways) – Have raised no objections to the proposal
- 4.5 Public comments – A site notice has been displayed and neighbours consulted. No representations have been received.

#### **5.0 Analysis**

- 5.1 The main issues to consider are: (i) the principle of the temporary hangars for storage purposes; (ii) the impact of the development on the character and appearance of the area; (iii) the impact of the development on the amenity of the area.

##### The Principle of Development

- 5.2 Policy CP1 of the Core Strategy states development that would significantly harm the natural or built environment or that would generate an adverse traffic impact will not be permitted. Proposals would be supported if they promote and encourage sustainable development.
- 5.3 As the site is located outside of the settlement boundary of Bagby, within open countryside, Policies CP4 and DP9 are of relevance. Policies CP4 and DP9 state that development will only be permitted beyond the development limits in exceptional cases, and where the development is within the scope of 6 criteria.
- It is necessary to meet the needs of agriculture, recreation, tourism and other enterprises with an essential requirement to be located in the countryside and will help support a sustainable rural economy;
  - It is necessary to secure a significant improvement to the environment or the conservation of a feature acknowledged importance;
  - It would provide affordable housing or community facilities which meet a local need; where that need cannot be met in a settlement within the hierarchy;
  - It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing;

- It would make provision for renewable energy generation, of a scale and design appropriate to its location;
- It would support the social and economic regeneration of rural areas.

In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications.

- 5.4 The operation of an airfield will normally require a countryside location due to the amount of land required and for separation distance from dwellings to attenuate noise. Bagby Airfield is in a countryside location and the business of operating at the airfield, together with enterprises which depend upon a physically close relationship to the Airfield and that will help support a sustainable rural economy, can take support from policy CP4. The development proposed has not been shown to be necessary to meet the needs of any business at the Airfield and cannot take support from CP4
- 5.5 The proposal is for the retention of two temporary hangars for a further 24 months after the determination of this application, to enable the storage of equipment associated with the Airfield and for aircraft storage. As part of the approval in 2019, the construction of a new tractor shed adjacent to Hangar F was approved. This tractor shed is yet to be constructed. The storage of equipment associated with the Airfield was accommodated south east of the fuel pumps, these hangars have been demolished as shown on the approved plans, and therefore currently there is no dedicated storage available on the site for equipment associated with the Airfield maintenance. The applicant also seeks consent for further storage of aircraft within the temporary hangars. It is noted that Hangar C1 has now been completed and is used for the storage of aircraft.

#### The Business Case

- 5.6 The Development Plan supports business development in the countryside where it complies with a series of criteria. The leading policy of the LDF is Policy CP15 which details how the social and economic needs of rural communities will be supported. The policy sets examples of proposals that will be supported. Pertinent to this proposal is the support for:
- i) Retention or expansion of appropriate businesses outside of the Service Centre and Service Villages;
  - ii) Appropriate tourism related initiatives, including schemes which improve the accessibility of tourist assets both within and outside the District; and
  - iii) Recreation uses appropriate to a countryside location.
- 5.7 In all cases development should be designed to be sustainable, consistent with the requirements of CP1 and CP17, should not conflict with environmental protection and nature conservation policies of the LDF but should seek to enhance the environment and should provide any necessary mitigating or compensatory measure to address harmful impacts.
- 5.8 LDF Policy DP25 sets out support for rural employment proposals. All five criteria of Policy DP25 need to be met to enable the development to be supported by this Policy. This requires proposals to be

- i) small in scale,
- ii) comprise conversion or re-use or appropriate replacement or extensions;
- iii) be incapable of location within a settlement in the hierarchy at CP4;
- iv) be supported by a business case; and
- v) not harm the economy of the service centre.

- 5.9 The temporary hangars create an additional 375 square metres floor space which could be used for the storage of aircraft. The new build elements of the scheme are not small in scale as they amount to a significant increase of building floor space on the site. As such, the development is not small in scale when viewed in context of the site and its use. The proposal fails to meet the first test of DP25.
- 5.10 The temporary hangars are not a re-use or conversion of an existing building and were only originally granted temporary permission whilst ongoing works were being undertaken on the site. All the hangars approved by the 2019 permission have been constructed and in use and therefore there is no demonstrated need for additional space for aircraft storage. The proposal fails the second test of DP25.
- 5.11 It was demonstrated in the application approved (Reference: 16/02240/FUL) that the location of the Airfield is outside of a settlement with Development Limits and is acceptable. The development as built and proposed cannot be accommodated within development limits given that the airfield is located outside the built confines of any settlement. As the hangars are not capable of being located within a settlement due to the position of the Airfield it is considered that the siting of the temporary hangars for a further 24 months meets the third test of DP25.
- 5.12 The two temporary hangars create a combined 375 square metres, which significantly increases aircraft storage on the site. At the time of the application (Planning Reference: 16/02240/FUL), the submitted information indicated that the hangars are not full, housing up to 33 aircraft currently. Indicating an increase to 40 aircraft upon completion of the development resulting in a 21% uplift in based aircraft. There is concern that additional hangar space would result in increase in movements. There are controls within the planning conditions on the 16/02240/FUL application that restrict movements. However, there is non-compliance with the conditions, most notably for this proposal, the required data on movement numbers has not been supplied. It is therefore reasonable to resist this proposal as i) there is a significant risk of increasing movement numbers, ii) without monitoring those movements and iii) the purpose of the condition by controlling the noise impact on the local community would be frustrated. Therefore, a substantial further increase of hangar space due to increased storage space could result in further movements associated to the Airfield.
- 5.13 At the time of the planning application (16/02240/FUL) an assessment was undertaken of the number of aircraft movements necessary for the business to be viable. The business viability was assessed on the basis of mainly: the general arrangement of the airfield, the runway length, surfacing, gradient, the facilities on the ground and the ability to generate revenue (landing fees, fuel sales, food and drink, overnight accommodation, hangar fees). The viability of the business was balanced against the assessed historic levels of aircraft movements and the impact of the aircraft movements upon the amenity of the local community. Conditions were imposed and planning obligation agreed to limit the impact upon the local community. The approval of expansion of the ground facilities without an

appropriate business case is contrary to the fourth test of Policy DP25. Without the appropriate business case no assessment of viability as a consequence of the increased hangar space can be made. Whilst ability to accommodate more aircraft could generate more revenue, it could also increase the investment, maintenance and operational costs and result in pressure for uplifts in numbers of movements, and relaxation of other controls set out in the 16/02240/FUL permission.

- 5.14 The business case for the proposal has been reviewed by York Aviation, consultants to the Council. This notes the requirement in the NPPF (para 106 f) to: recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy. York Aviation find that “none of the applications provide the clear and concise justifications which would be expected for development at an airfield.” The conclusion reached by York Aviation is that:

Overall, we believe that the applications do not quite provide enough information to allow a planning decision. The extra information should be easy to provide and would need to focus on justifying why these developments are now needed to support the business or economic case for the Facility (outlining both financial and potential economic impacts).

Importantly however, we believe that the overall planning conditions imposed as a result of the 2019 decision would remain valid and would prevent additional activity, meaning that any amended nature of operations from each of the developments under consideration would have to be contained within the same overall controls.

- 5.15 The owner has not supplied any of the aircraft movement data required by the planning conditions of the permission (16/02240/FUL). The consented scheme has not been fully implemented, notably a start has not been made on the consented scheme for the new clubhouse. It is therefore not possible to assess whether the consented scheme will result in the numbers of movements identified to achieve viability, as assessed at the time of the 2016 application, with or without the additional development now proposed. The owner has not supplied an appropriate business case and therefore fails the test of DP25. There is no evidence of a recalculation of viability of the airfield. In the absence of any evidence regarding the business case, or the impact the development may have on the viability of the airfield it is a risk to allow the facilities to be extended that may result in an incremental change to the scale of operations at the airfield and result in a case on viability grounds to vary the conditions that have been imposed (and agreed planning obligation) in order to safeguard amenity. The development may therefore erode the amenity of the local community.
- 5.16 During the course of the application, an updated Business Case was requested to assess how the two temporary hangars would affect the viability of the business. An addendum has been provided however no explanation of why the development is necessary to achieve the objectives of the previously accepted proposals has been assessed. The details provided as part of the application are that additional hangar space was required during the winter months with the adverse weather conditions and the impact of the Covid-19 pandemic. However, no further explanation or detail has been provided to indicate how the additional hangar space would affect the viability of the business.
- 5.17 The proposal has not been shown to meet the fourth test of DP25.

- 5.18 The proposed retention of the temporary hangars is to support the use of the Airfield. The development of an airfield due to its size and character cannot be accommodated in a service centre and therefore, the development would not impact the economy of any service centres. The proposal meets the fifth test of DP25.
- 5.19 The development would not result in any significant harm to the natural or built environment, with the hangars constructed in close proximity to the existing built form on the Airfield. The development fails to meet parts (i), (ii) and (iv) of Policy DP25. but the proposal fails to meet the key aims and objectives of Policy DP25 and is therefore contrary to the LDF Policies. CP4 and DP25.

#### The Impact on the Character of the Surrounding Area

- 5.20 Policy CP16 of the Core Strategy states that development will be supported where they preserve and enhance the District's natural and man-made assets. Development will not be supported which have a detrimental impact upon the interests of natural or man-made assets. Any necessary mitigation or compensatory measures must be provided to address potential harmful implications of development.
- 5.21 Policy CP17 of the Core Strategy states that support will be given for proposals that are consistent with the LDF's detailed design policies and meet all the following requirements: provide an attractive, functional, accessible, safe and low maintenance development; respect and enhance the local context and its special qualities, including urban design, landscape, social activities and historic environment, incorporate public art where appropriate; optimise the potential of the site; adopt sustainable construction principles.
- 5.22 Policy DP30 states that the openness, intrinsic character and quality of the District's Landscape will be respected and where possible enhanced.
- 5.23 The National Planning Policy Framework Planning supports this approach and, at paragraph 134, states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.24 The Airfield and the buildings within its bounds, including the two hangars in question, lie beyond the built confines of Bagby and form part of the surrounding countryside. The hangars are not isolated entities in the countryside. They form part of the group of buildings associated with the airfield and do not seriously impinge upon the rural character of the sites surrounds. It is therefore considered that the hangars do not have a significant detrimental impact upon the character and appearance of the countryside and does not breach the tests of CP16, CP17 or DP30.

#### Impact on of Amenity of the Area

- 5.25 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.

5.26 If the development was to be approved a suitably worded condition could be imposed to restrict the use of the hangars for storage only and therefore avoid harm being caused on neighbouring residential amenity. It is therefore considered that the development is in accordance with Policy DP1.

#### Planning Balance

5.27 The lack of information regarding the need for the retention of the two prevents assessment of whether the development would support the local economy and whether in turn this would help sustain rural communities. No weight can be given to economic benefits in any planning balance exercise.

5.28 The retention of the temporary hangars for a further 24 months does not cause significant harmful impact on the character and appearance of the area or harm to the environment.

5.29 No supporting information has been provided to establish whether the development would result in an increase in activities at the Airfield which would also lead to an impact on amenity. It is therefore considered that the development is contrary to Policy DP1.

5.30 The policy requirements of the adopted Development Plan have not been met subsequently the application is recommended for refusal.

#### 6.0 Recommendation

That subject to any outstanding consultations the application be **REFUSED** for the following reason(s):

1. The proposal is contrary to the Local Development Framework Policies CP1 and DP25 as an appropriate business case has not been supplied. Any economic benefit arising from the increased capacity of the aircraft hangar cannot be properly assessed and the potential harm to the amenity of the local population arising from the proposal is not outweighed by any known economic or other benefit and is also contrary to the Local Development Framework Policy DP1.

## Response from Action 4 Refusal

This is the response of Action For refusal to an invitation to comment on two retrospective planning applications in relation to works to the runway and extension of Hangar A at Bagby airfield . There are other retrospective applications in the pipeline but only these two application are to be considered for decision at the next Planning Committee meeting

### 1. Summary and Conclusion

(a) These two retrospective applications are obviously invalid and should not be before the Planning Committee for consideration.

(b) The officer has admitted that no indirect or cumulative impact assessment has been carried out prior to the validation decision . Had this been done , and the applications not looked at in isolation, an Environmental Statement would have been required prior to validation.

(c) The so called Addendum to the Business case forwarded by Barton Wilmore and the contradictory but ultimately encouraging positive steer put in it by York Aviation is contradicted by the submitted business case itself , the airfield's own public statements in other contexts including what it says on its own website. The only business case put forward relates to the sole traders Graham and Matthew Fox rather than the airfield itself and should be disregarded on that ground alone ; properly speaking there is no business case at all to go with the application. But even a business case for the airfield's major commercial tenant could be considered in an application made by the airfield , it is wholly inadequate as it is based on statements that are manifestly wrong : the applications should not have been validated.

(d) Should the Committee disagree and hold that the application is nevertheless valid, it has no choice but to reject the retrospective applications as any approval would be clearly defective.

### 3. The absence of an Environmental Statement

(a) The applications are presented in isolation and characterised as a repair operation to the runway and a necessary development to Hangar A . Even if this were to be true ( which it is not , as both will facilitate the landing and maintenance of heavier and noisier planes) Tim Wood admitted to A4R on September 17 that all that has been done is a box tick exercise on a two page pro forma to enable the planning department to conclude that the impact of the developments are not 'substantial' and therefore that an Environmental Statement is not required.

(b) Not for the first time, no indirect and cumulative assessment has been carried out. Any such real world assessment would have had to take into account wholesale non compliance with planning conditions, so called non material variations that the officials wish to permit and other retrospective applications both actual and prospective to cater for unauthorised development carried out by the airfield.

(c) The failure to adopt a holistic approach which is required by law, results in entirely the wrong baseline being adopted for consideration of these retrospective applications. An Environmental Statement should have preceded validation; it is a fatal defect and means that the applications should never have been validated.

(d) A proper Environmental Statement is required for very good reasons anyway since for the very first time a safety audit would have been carried out. The airfield still cannot afford a manager and in recent months children have been sighted on the fuel facility, the runway area has been used for go carting and there has been a reported near -miss incident. These are serious matters which require consideration prior to validation.



#### 4 the so called Business Case

(a).LDF policy DP 25 requires that an 'appropriate' business case be submitted in support of these proposals. Without such a business case, these applications would have not been validated and would have been thrown out. Tim Wood did ask that a business case be submitted but this was only in relation to the Hangar A retrospective application. This was far too narrow a request; with two days to spare before the deadline for submission, an Addendum was produced by the airfield's Peter Bondar and forwarded by Barton Wilmore . The Addendum contained an attempted business case not just in respect of Hangar A but also in relation to runway alterations 21/01243, retention of the temporary hangars and other applications yet to be submitted. The Addendum does not amount to an "appropriate " business case since it is wholly related to FAE the major commercial tenant. There is no attempt to relate any benefits that might be derived from the developments for FAE to the airfield as a whole. As such the application lacks a business case and should never have been validated.

(b) Should it be assumed (as it would have to be) that what is good for FAE is good for the airfield and that the formal defect can be disregarded( a legal error ) and therefore that a formally valid application actually exists, the Planning Committee should note that in the ' business background' in the Addendum ( which was submitted in July)Bondar made the following statement :-

'Fox Aviation(FAE) went through a challenging period as a result of regulatory oversight( the reference here is to the withdrawal of its licence by the CAA!) and subsequent mandated changes. The paradoxical results of these changes in the wider general aviation market has resulted in a greater demand for FAE resources....FAE NOW(our emphasis) have 10 fulltime staff plus 4 part time staff as well as apprentice and training based operations - a much broader operation than was predicted".

(c)"Paradoxical" does not really capture the reality of the situation for in the section headed "current situation " in the Addendum Bondar describes the period March 2020 to 2021 as being ' very limited' due to Covid and Brexit. This negative message is reinforced by Bondar at the improperly constituted Consultative Committee on the 5 August as follows ;-

'Overall general aviation activity remains lower than pre - pandemic and pre Brexit levels; as a result of a number of changes affecting all aspects of UK aviation it is suspected that many occasional flyers/ operators have simply not taken place with all the changes and have in part suspended their operations'

(d)Quite how the 'doom of gloom' of this latter statement( apparently written in April) might be reconciled with the ' all systems go' message in the Addendum in July would be a challenging exercise to put it mildly. Had business at Fox suddenly bucked the desperate situation in the market overall ( Tees side has just recorded an annual loss of 14 million sterling after all ) between March and August of 2021 one might have expected Bondar to have made a positive announcement at the Consultative Committee meeting in August. Such a turnaround is implausible in the extreme. However no reconciliation is in fact possible because the statements in relation to 10 permanent positions and 4 part time staff are simply wrong . According to the Fox website ( which is not a company it should be stressed)there are actually only 6 employees. Of these -an administrator - has a connection with the owner, one has no maintenance qualification, one is based in Beverley and semi retired .With only 600 movements in the first quarter, the prospects of employment actually increasing from this very low base are not exactly promising. What is more likely is that there will be a reduction in employment if that has not occurred already.

(e) Action for Refusal has pointed this fundamental factual discrepancy on employment numbers to HDC and Barton Wilmore and has been met with a deafening silence. The Planning Committee is therefore being asked to take seriously a business case put forward on behalf of a couple of sole traders who will necessarily have very limited access to outside capital, one of whom is coming up to retirement and has had his licence removed by the CAA in the past and the other ( his son ) who has no aircraft maintenance qualifications at all . What is more, the list of resident aircraft finally submitted pursuant to a planning condition (well in arrears as usual) makes residence claims that are manifestly incorrect thus giving an inaccurate picture of the number of planes at the airfield and therefore the need for extended hangarage. Truly this is a "business " that is going nowhere fast in the economic conditions that Bondar describes so eloquently.

(f)Not for the first time, York Aviation 's commentary fails to scratch even the surface of claims that are made. It will be recalled that in its report on the original business case at paragraph 4.126 it expressed doubt as to the employment benefits predicted by the airfield because they were not " robust enough" ( sic) .In spite of this concern( which turned out to be entirely justified) it was prepared to conclude based on its supposed expertise that there was a reasonable chance of the promised developments occurring - a conclusion that officers were only too happy to rely on in their report recommending acceptance. In the Addendum the same shoddy 'reasoning' is apparent ; thus their "high level review" (sic)says that " none of the applications provide a clear and concise justification which would be expected for the development of an airfield". And yet these experts conclude at the end of their commentary that these justifications can be provided relatively easily !

(g) Quite how this can be done in the light of Bondar's statement about the general aviation market and his comments to the Consultative Committee is very difficult to imagine. Whatever level York Aviation operate at you would have expected them to discuss Bondar's remarks in the Addendum itself and the evidence of only 600 hundred movements even if it is too much to expect them to look at the website or read his corroborative negative remarks at the Consultative Committee only a couple of months ago. Apart from a passing reference to Covid there is little or no attempt to examine the business case in the light of the state of the general aviation market at all . This is remarkable deficiency in a report from supposed 'experts'.

(h)Even more remarkable is the implicit working baseline assumption underpinning their report that the conditions of the original permission are being observed and this compliance will continue. The Planning Committee and everyone else with any interest in this planning debacle knows full well that this is a wholly inaccurate assumption. In fact the conditions are mostly being ignored and new unauthorised developments seem to come to light all the time .York Aviation's opinion is worthless in the light of all these defects . If the object of commissioning it ( at residents expense as ever) was to provide officers with some cover for a positive recommendation in the very tight corner in which their maladministration has placed them, the money spent was ( once again) completely wasted.

(i)So defective a "business case" cannot possibly be "appropriate" as required by DP 25. The decision to validate the application was clearly wrong as the Addendum is a nullity. If the Committee disagrees, there is only one available option and that is rejection of these retrospective applications accompanied by long overdue court action in respect of the many continuing breaches of condition.

ACTION FOR REFUSAL

**Parish: Bagby**  
Ward: Bagby & Thorntons  
**4**

Committee Date : 21 October 2021  
Officer dealing : Mr Craig Allison  
Target Date: 5 July 2021

**21/01243/FUL**

**Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage**  
**At: Land to the North of the Airfield, Bagby, North Yorkshire**  
**For: Mr M Scott**

**The proposal is presented to Planning Committee as the site is of significant public interest**

- 1.0 Site, context and proposal
- 1.1 Bagby Airfield occupies a piece of land to the south and south west of the village of Bagby. The land lies east of the A19 and is currently accessed via a newly constructed access track that leaves the Main Street of Bagby to the west of the village. The site is about 500m from the southern edge of the village of Bagby.
- 1.2 The Airfield occupies 15.6 hectares. The land is in use for the purposes of operating an airfield. Some of the surrounding land is fallow and other parts of the application site continue to be used for arable agricultural purposes.
- 1.3 Boundaries to the land around the Airfield are formed by hedges of varied species and heights. The north, south and west boundaries have substantial hedges, the eastern end of the airfield is not fully bounded by hedgerows. Local landform allows some views of the central and western end of the airfield from viewpoints to the west but changes in ground levels, hedgerows and trees shield the remainder of the airfield from public view.
- 1.4 In addition to the relationship with Bagby, there are dwellings to the south west, south and south east of the application site and notably in the vicinity of the village of Great Thirkleby and Thirkleby Hall Caravan Park (630 metres to the south east) that are potentially affected by activities at the airfield (in particular noise).
- 1.5 Beyond the boundaries of the application site of the Airfield the land is in agricultural use except for the children's play area on Bagby Lane, which is located beyond the northern edge of the Airfield land.
- 1.6 Planning permission was granted on the 30 July 2019 under planning reference 16/02240/FUL including works to extend hard surfacing of the central section of the runway. A planning application was submitted under planning reference 20/02531/FUL for the retrospective resurfacing of the runway from geo- textile track to concrete surface and the creation of a turning circle north east of the runway to concrete, however this was subsequently withdrawn by the applicant. The reason for the withdrawal of the application was noted to be that it wrongly stated the proposal as concrete was not proposed to be used rather the runway was being reinforced with geo textile matting.

- 1.7 The application is seeking retrospective permission and approval for works that are not retrospective.

Retrospective approval is sought for:

- 1) the extension of the concrete section of the runway to the north-east of the central concrete part of the runway that was existing and previously approved.
- 2) the reinforced geo-textile matting located to the north-eastern part of the runway with this measuring a width of 8 metres and a length of 200 metres. The matting continues around the end of runway "24" marker at a length of 29.27 metres and width of 25.92 metres.
- 3) installation of runway drainage. This work entailed the replacement of clay pipes to modern piping to withstand wear and are located along either side of the reinforced matting to a width of 2 metres to the south and 4 metres to the north. Works to facilitate drainage also include the laying of shallow stone channels under the runway matting to help surface water run off and the laying of sand to help reinforce the matting.

- 1.8 The non-retrospective elements are

- 4) reinforced geo-textile matting to the south-western runway with this measuring a width of 10 metres and length of 70.83 metres, to sit on the area of the existing matting.
- 5) earthworks (formation of trenches with gravel backfill and pipework) to facilitate drainage are also proposed to either side of the reinforced geotextile matting and underneath, similar to the retrospective works to the north-eastern runway.
- 6) a concrete turning area to be located at the end of runway 24 and its taxiway comprising of a new turning areas for the use of aircraft measuring 352 square metres.

- 1.9 The development falls below the thresholds of Schedule 1 and 2 of the EIA Regulations (10(f) the area of the works does not exceed 1 hectare) and an Environmental Statement is not required.

- 2.0 Relevant planning history

- 2.1 16/02240/FUL - Change of use and external alterations of the engineering building to be used as a clubhouse and control tower, erection of a new tractor shed, erection of a new hangar, formation of a new access drive, the introduction of hard and soft landscaping and amended on 14 March 2018 to include the creation of a fixed fuel facility and the use of Hangar B for aircraft maintenance. Works include the demolition of the existing clubhouse, control tower, hangars and storage buildings and partial demolition of one other hangar. Air Movements to be capped at a maximum of 8,440 per annum. – Approved 30 July 2019.

- 2.2 18/00524/FUL - Retrospective application for the temporary siting of a portable aircraft engineer's office and document storage cabin – Approved 30 July 2019.
- 2.3 20/00766/MRC - Application for variation of condition 1 for approved application 18/00524/FUL - The condition to be varied to extend the date to which the planning permission is valid until for one year from the approval of this application, or upon completion of Hangar B. – Approved 5 June 2020. The temporary planning permission expires on the 5 June 2021.
- 2.4 21/00081/FUL - Retrospective application for an access road off Bagby lane to provide access to the airfield – Approved 7 June 2021
- 2.5 21/01058/FUL - The retention of 2 temporary hangers on site for a use for aircraft storage and ancillary storage of airfield machinery and equipment for a period of 24 months – Pending Consideration
- 2.6 21/01243/FUL - Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage – Pending Consideration
- 2.7 21/01709/FUL - Retrospective application for hardstanding, associated drainage, door and walkway to Hangar C1 and proposed lean-to for office to Hangar B – Pending Consideration
- 3.0 Relevant planning policies
- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;
- Core Strategy Policy CP1 - Sustainable development
  - Core Strategy CP2 – Access
  - Core Strategy Policy CP4 - Settlement hierarchy
  - Core Strategy Policy CP15 – Rural Regeneration
  - Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
  - Core Strategy Policy CP17 - Promoting high quality design
  - Development Policies DP1 - Protecting amenity
  - Development Policies DP9 - Development outside Development Limits
  - Development Policies DP16 – Specific measures to assist the economy and employment
  - Development Policies DP25 – Rural Employment
  - Development Policies DP30 - Protecting the character and appearance of the countryside
  - Development Policies DP32 – General design

- 3.3 Hambleton emerging Local Plan was considered at Examination in Public during Oct-Nov 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>  
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.
- 3.4 National policy and advice is contained in the following documents:
- National Planning Policy Framework 2021
  - Aviation Policy Framework published 22 March 2013
  - Noise Policy Statement for England March 2010 from the Department for Environment, Food and Rural Affairs
  - National Planning Practice Guidance
  - General Aviation Strategy published by the Department for Transport March 2015
  - Noise Considerations at General Aviation (GA) Aerodromes published by the CAA (Civil Aviation Authority) November 2012
  - “General Aviation Roadmap: spring 2021” from the Department for Transport Spring 2021
- 3.5 Other non-Governmental guidance:
- General Aviation Awareness Council - General aviation sector-led guidance on planning in relation to aerodromes for local planning authorities, aerodrome owners and aerodrome operators, prepared by the GAAC, April 2015.
- 3.6 The Local Development Framework is the Development Plan for Hambleton and contains policy that is pertinent to the determination of the application. The NPPF and the Aviation Policy Framework, the Noise Policy Statements, the Planning Practice Guidance, CAA guidance and General Aviation Strategy and GAAC guidance are material considerations.
- 4.0 Consultations
- 4.1 Bagby & Balk Parish Council – Object, the full details of the objection is set out at Annexe A.
- 4.2 Thirkleby Parish Council – No comments received
- 4.3 North Yorkshire County Council (Highways) – Have raised no objections to the application
- 4.4 Environmental Health – Have raised no objections to the development they have considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact.

- 4.4 Environment Agency – No comments received
- 4.5 National Air Traffic Service – No safeguarding objections.
- 4.6 Civil Aviation Authority – No comments received
- 4.7 Public comments – A site notice has been displayed and neighbours consulted. Letters of objection has been received as summarised below:
- Concerned that the use of the airfield will increase over and above the suggested higher end user set out in the business plan.
  - That the routes taken by aircraft overfly areas of land resulting in disturbance to livestock causing a horse being lead out of a stable to be spooked, and when reporting this at the airfield found no one in charge, and that this has happened several times.
- 4.8 One letter has been received neither objecting nor supporting the application, and summarised below:
- Following the approval of major changes to the airfield in 2019, many hobbyist flyers left the Airfield, and subsequently heavier aircraft landed at the airfield and has subsequently damaged the runway in 1.5 years compared to the 20 years that hobbyist's were using the Airfield.
  - It is considered that the heavier loads imposed by the aircraft caused the damage to the runway, therefore where are the civil engineering analysis which demonstrates that the runway reinforcement will not fail.
  - The application is not small in scale and carries with it the likelihood more repair work is to be carried out to the geo textile tiles and will result in the future of the runway being a concrete runway.
- 4.9 Representation has been received from Action for Refusal noting that the application is invalid, that an Environmental Statement should have been prepared and the submitted business case is inadequate and the application should be refused. A full copy of the representation is appended to this report.
- 5.0 Analysis
- 5.1 The main issues to consider are: (i) the principle of changing the surface of the runway and the creation of a turning circle; (ii) the impact of the development on the character and appearance of the area; (iii) the impact of the development on the amenity of the area; (iv) the impact of the development on drainage; and (v) The Environmental Impact Assessment

#### The Principle of Development

- 5.2 Policy CP1 of the Core Strategy states development that would significantly harm the natural or built environment or that would generate an adverse traffic impact will not be permitted. Proposals would be supported if they promote and encourage sustainable development.
- 5.3 As the site is located outside of the settlement boundary of Bagby, within open countryside, Policies CP4 and DP9 are of relevance. Policies CP4 and DP9

state that development will only be permitted beyond the development limits in exceptional cases, and where the development is within the scope of 6 criteria. In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications.

- It is necessary to meet the needs of agriculture, recreation, tourism and other enterprises with an essential requirement to be located in the countryside and will help support a sustainable rural economy;
- It is necessary to secure a significant improvement to the environment or the conservation of a feature acknowledged importance;
- It would provide affordable housing or community facilities which meet a local need; where that need cannot be met in a settlement within the hierarchy;
- It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing;
- It would make provision for renewable energy generation, of a scale and design appropriate to its location;
- It would support the social and economic regeneration of rural areas.

CP4 also requires that “In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications”.

- 5.4 The operation of an airfield will normally require a countryside location due to the amount of land required and for separation distance from dwellings to attenuate noise. Bagby Airfield is in a countryside location and the business of operating at the airfield, together with enterprises which depend upon a physically close relationship to the Airfield and that will help support a sustainable rural economy, can take support from policy CP4. The development proposed has not been shown to be necessary to meet the needs of any business at the Airfield and cannot take support from CP4.
- 5.5 The proposed reinforced matting, runway alterations and earthworks for drainage are of a small scale. The site benefits from a runway already, with geo-textile matting that will be replaced with a new geo-textile reinforced surface. Furthermore, as the proposed development will be located within the developed area of the Airfield the proposed alterations would reflect the existing development at the Airfield and as such, would not result in any harm to the surrounding natural or built environment.
- 5.6 The reinforced matting and concrete additions to the apron and 24 marker turning circle would also support the activities of the Airfield, albeit not increasing movement beyond the limits set by the planning conditions of approval 16/02240/FUL but allowing aircraft to utilise the Airfield more efficiently and when the ground is wet. Policy CP4 indicates support for development which meets the needs of recreation and tourism where it is essential that these enterprises locate in the countryside. The runway extensions will support the development to better meet the needs of tourism and recreation. This type of development is not feasible in any other setting and it is considered that the



works to the runway are in principle acceptable under Policy CP4 and to the guidance of Government that supports the General Aviation sector.

### The Business Case

- 5.7 The Development Plan supports business development in the countryside where it complies with a series of criteria. The leading policy of the LDF is Policy CP15 which details how the social and economic needs of rural communities will be supported. The policy sets examples of proposals that will be supported. Pertinent to this proposal is the support for:
- i) Retention or expansion of appropriate businesses outside of the Service Centre and Service Villages;
  - ii) Appropriate tourism related initiatives, including schemes which improve the accessibility of tourist assets both within and outside the District; and
  - iii) Recreation uses appropriate to a countryside location.
- 5.8 In all cases development should be designed to be sustainable, consistent with the requirements of CP1 and CP17, should not conflict with environmental protection and nature conservation policies of the LDF but should seek to enhance the environment and should provide any necessary mitigating or compensatory measure to address harmful implication.
- 5.9 LDF Policy DP25 sets out support for rural employment proposals. All five criteria of Policy DP25 need to be met to enable the development to be supported by this Policy. This require proposals to be
- i) small in scale,
  - ii) comprise conversion or re-use or appropriate replacement or extensions;
  - iii) be incapable of location within a settlement in the hierarchy at CP4;
  - iv) be supported by a business case; and
  - v) not harm the economy of the service centre.
- 5.10 The reinforced matting has been laid and is proposed to replace existing parts of the runway which already has matting in place and the proposed concrete areas of the runway apron and turning are small in scale. The earthworks consist of all underground work to facilitate drainage to the runway and are also considered small in scale. The proposal meets the first test of DP25.
- 5.11 The alterations in the existing runway have been done to enable the Airfield to operate on an all year round basis. It has been found over the winter months that it has been difficult for aircraft to land and take-off from the Airfield due to the poor ground conditions, as stated by the agent within the covering letter. Therefore, alterations on the existing runway are considered to be an appropriate replacement and meet the second test of DP25.
- 5.12 The development as built and proposed, cannot be accommodated within development limits given that the airfield is located outside the built confines of any settlement. The principle of altering materials of the runway therefore meets the third test of DP25.
- 5.13 At the time of the planning application (16/02240/FUL) an assessment was undertaken of the number of aircraft movements necessary for the business to

be viable. The business viability was assessed on the basis of mainly: the general arrangement of the airfield, the runway length, surfacing, gradient, the facilities on the ground and the ability to generate revenue (landing fees, fuel sales, food and drink, overnight accommodation, hangar fees). The viability of the business was balanced against the assessed historic levels of aircraft movements and the impact of the aircraft movements upon the amenity of the local community. Conditions were imposed and planning obligation agreed to limit the impact upon the local community, whilst achieving a viable business. The approval of an expansion of the ground facilities through extension to the concrete sections of the runway without an appropriate business case in contrary to the fourth test of Policy DP25.

- 5.14 The business case for the proposal has been reviewed by York Aviation, consultants to the Council. This notes the requirement in the NPPF (para 106 f) to: recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy. York Aviation find that “none of the applications provide the clear and concise justifications which would be expected for development at an airfield.” The conclusion reached by York Aviation is that:

Overall, we believe that the applications do not quite provide enough information to allow a planning decision. The extra information should be easy to provide and would need to focus on justifying why these developments are now needed to support the business or economic case for the Facility (outlining both financial and potential economic impacts). Importantly however, we believe that the overall planning conditions imposed as a result of the 2019 decision would remain valid and would prevent additional activity, meaning that any amended nature of operations from each of the developments under consideration would have to be contained within the same overall controls.

- 5.15 There are controls within the planning conditions on the 16/02240/FUL application that restrict movements. However, there is non-compliance with the conditions, most notably for this proposal, the required data on movement numbers has not been supplied. The owner has not supplied any of the aircraft movement data required by the planning conditions of the permission (16/02240/FUL). The consented scheme has not been fully implemented, notably a start has not been made on the consented scheme for the new clubhouse. It is therefore not possible to assess whether the consented scheme will result in the numbers of movements identified to achieve viability, as assessed at the time of the 2016 application, with or without the additional development now proposed. It is therefore reasonable to resist this proposal as there is a significant risk of increasing movement numbers. Without monitoring those movements the purpose of the condition by controlling the noise impact on the local community would be frustrated.
- 5.16 The owner has not supplied evidence of the viability of the airfield. In the absence of an appropriate business case for the development the impact the proposed development may have on the viability of the airfield is unknown. It is a risk to allow the facilities to be extended that may result in an incremental change to the scale of operations at the airfield and result in a case, on business viability grounds, to vary the conditions that have been imposed (and agreed

planning obligation) because they are necessary to safeguard amenity of the local community.

- 5.17 During the course of the application, an updated Business Case was requested to assess how the alteration in materials of the runway would affect the viability of the business. An addendum has been provided, however no explanation of why the development is necessary to achieve the objectives of the previously accepted proposals has been assessed. The details provided as part of the application stated that the alteration in the runway was required in order for the Airfield to operate in the winter months. However, no further explanation or detail has been provided to indicate how the alteration in the materials on the runway would affect the viability of the business.
- 5.18 The proposal has not been shown to meet the fourth test of DP25.
- 5.19 The proposed is to support the use of the Airfield. The development of an airfield due to its size and character cannot be accommodated in a service centre and therefore, the development would not impact the economy of any service centres. The proposal meets the fifth test of DP25.
- 5.20 The alteration of materials on the runway would not result in any significant harm to the natural or built environment. The proposal fails to meet the aims and objectives of Policy DP25 and is therefore contrary to the Council's Local Plan Policies CP4 and DP25.

#### The Impact on the Character of the Surrounding Area

- 5.21 Policy CP16 of the Core Strategy states that development will be supported where they preserve and enhance the District's natural and man-made assets. Development will not be supported which have a detrimental impact upon the interests of natural or man-made assets. Any necessary mitigation or compensatory measures must be provided to address potential harmful implications of development.
- 5.22 Policy CP17 of the Core Strategy states that support will be given for proposals that are consistent with the LDF's detailed design policies and meet all the following requirements: provide an attractive, functional, accessible, safe and low maintenance development; respect and enhance the local context and its special qualities, including urban design, landscape, social activities and historic environment, incorporate public art where appropriate; optimise the potential of the site; adopt sustainable construction principles.
- 5.23 Policy DP30 states that the openness, intrinsic character and quality of the District's Landscape will be respected and where possible enhanced.
- 5.24 The proposed runway alterations located closest to the existing hangars is built from concrete and be similar in appearance to the existing runway it could not be considered to result in significant harm due to the close visual relationship to the hangars and concrete section of runway. The proposed turning area at the 24 marker (to enable aircraft to turn when the ground is soft) will also be built with concrete to match the existing runway but is remote from other sections of concrete and a light-coloured concrete would be out of character with the rural location, however the absence of nearby public vantage points

results in little visual impact and consequently little harm from the provision of the concrete turning point. The reinforced geo-textile matting that is to be laid on top of the existing matting, will enable the runway to become functional and accessible for aircraft again. Grass will start to grow through the matting as it has done previously, therefore it will not have an adverse visual impact of the character of the area. As such the proposed development will not be in conflict with the LDF Policies CP16, CP17 or DP30.

#### Impact on of Amenity of the Area

- 5.25 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.26 The proposed runway and taxiway alterations are located well within the confines of the Airfield and would not alter the runway to an extent that would directly impact upon the amenity of residents in the village of Bagby. The existing permission for the site sets noise restrictions for the aircraft using the airfield. The aircraft using the site are required to meet these conditions to not result in any increased noise or disturbance or to the residents in Bagby village. As noted above there are instances of non-compliance with the conditions, whilst the details of the proposal would not give rise to a direct increase in noise there remains a risk due to non-compliance of a loss of amenity to the local community.

#### Impact on Drainage

- 5.27 Local Development Framework Policies CP21 and DP43 require that development does not have an adverse effect on watercourse or increase the risk of flooding elsewhere. The NPPF seeks to manage drainage as a component of responding to climate change and reducing the risk of flooding.
- 5.28 A large proportion of the Airfield still remains as grassland. Retrospective earthworks have been undertaken which have facilitated drainage. This work entailed the replacement of clay pipes with plastic pipe in a gravel backfill in a trench to withstand wear and are located along either side of the reinforced matting at a stand-off distance of 2 metres to the south and 4 metres to the north. Works to facilitate drainage also include the laying of shallow stone channels under the runway matting to help surface water run-off and the laying of sand to help reinforce the matting. It is considered with these alterations to the drainage of the site this will enable the runway to be used throughout a greater range of weather conditions. The use of an existing watercourse for drainage also continues the existing arrangement. The proposal would not increase the risk of flooding and therefore complies with the Council's Local Plan Policies and the overarching principles of the NPPF.

#### Environmental Impact Assessment (EIA)

- 5.29 The development for the change in materials for an existing runway and the creation of a turning circle is not EIA development. This is due to the fact that the development falls below the thresholds for EIA development and is not an extension to the runway.

## Conclusion

- 5.30 The retrospective change in materials of the runway from a geo-textile surface to concrete and the creation of a turning circle at the north eastern runway may enable the airfield to operate throughout the year. The same applies to the non-retrospective elements. The changes to the runway are also proposed to ensure the safe landing and take-off, of aircraft from the Airfield. It is considered that the development would not result in a significant harmful impact on the character of the countryside and would have no effect on neighbouring residential amenity.
- 5.31 However, it is considered that there is a lack of significant detail in regard to the viability of the Airfield or any detail of the reasoning why the alterations to increase extent of concrete on the runway were required and why the continued use of matting is insufficient. Without an appropriate business case to show how by altering the materials of the runway the development will support of the viability of the airfield the proposal fails the policy text of DP25.
- 5.32 There is no evidence available to support the proposal that outweighs the concerns regarding the unjustified reinforcement and resurfacing of the runways. The concerns that incremental increase in airfield infrastructure will increase aircraft movements and result in more noise in the environment and a loss of amenity and subsequently the application is recommended for refusal.

## 6.0 Recommendation

That subject to any outstanding consultations the application be **REFUSED** for the following reason(s):

1. The proposal is contrary to the Local Development Framework Policies CP1 and DP25 as an appropriate business case has not been supplied. It is not possible to assess whether there is any economic or other benefit arising from the reinforcement and resurfacing of the runway and drainage works to offset the risks of an incremental increase in facilities contributing to increased use of the airfield and a loss of amenity to the local community.

## Annexe A

### Response of Bagby and Balk Parish Council

Dear Mr Allison,

Please find below the response of Bagby and Balk Parish Council (BBPC) to an invitation to comment on the two retrospective planning applications detailed below which are to be considered by officers at Hambleton District Council (HDC)

- **21/01243/FUL Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage**
- **21/01709/FUL Retrospective application for hardstanding, associated drainage, door and walkway to Hangar C1 and proposed lean-to for office to Hangar B**

Firstly, as there are multiple retrospective applications currently in the pipeline, why can they not all be considered at the same time to give a complete picture?

BBPC is now of the opinion that their views are not welcome, or actually considered important in the planning process at HDC. Councillors feel this regrettable as BBPC has been proved repeatedly right about the long-term intentions of the airfield.

BBPC was right when it explained it would be a mistake to imagine that granting permission would make any difference to the airfield's behaviour. The catalogue of breaches and further unauthorised developments shows what happens if you give the owner of the airfield an inch.

The failure to build the fence to protect children, which was insisted on by the Planning Committee but which was surprisingly not supported by officers of HDC is the latest non compliance which was predicted by the BBPC and duly came to pass.

Even those officers who have supported the airfield in the past have come to realise that the conditions are not being policed with any sort of authority or professionalism.

As you will recall BBPC was in opposition to the fuel facility, two planning inspectors agreed with BBPC but officers from the planning department at HDC granted permission. As a result of this decision the airfield can now run 24/7 with jet planes landing at all hours to pick up fuel.

HDC has failed to offer any evidence in support of its objections to the original installation of geo textile matting. The airfield has ruthlessly exploited this error by weighing down the matting with heavy planes which has ultimately destroyed it. How can this be called a repair when it is replaced with concrete reinforcement?

When you consider how much concrete has replaced grass over the last 14 years, the direction of travel is clear. It is not 'repair' as described but it is actually creeping development at an alarming increasing pace.

Whatever the 'new business plan' might say, the facts speak louder. The number of planes really resident at the airfield has dropped substantially and there is no way that the owner can make any money out of maintenance and therefore benefit the airfield – let alone the local community

The Business Plan should really state that the airfield intends to attract much larger, nosier planes all the year round to an airfield that is truly 'open all hours' just as the website claims. Grass has to be replaced by concrete for this to happen.

It is clear that HDC has no intention in issuing a stop notice, even with all the conditions not being fulfilled. Gradually the airfield will have more and more concreted runways and more concrete standing areas, it is only a matter of time till planners are faced with yet another retrospective application.

Once the larger runway is complete, larger, nosier planes will come in round the clock, BBPC feels HDC has no intention of stopping the owner by prosecuting over the continual breaches of out of hours conditions. The latest excuse for inaction is that a gate has not been installed correctly is very poor. The existence of a gate won't stop planes arriving out of hours if pilots and passengers just walk round it to enter or exit the airfield.

BBPC has bitter experience of conflict with the airfield, HDC has spent an extraordinary amount of money on external fees over the last 14 years. There has been no jobs bonanza or other development benefits to the local community as promised.

These applications should not even be before planners, A4R explains why. They should be refused and a serious attempt to regain planning control along HDC's reputation should be made.

Yours sincerely

Sandra Langthorne

Clerk and Responsible Officer for Bagby and Balk Parish Council

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**Parish: Ellerbeck**  
Ward: Osmotherley & Swainby  
**5**

Committee Date : 21 October 2021  
Officer dealing : Ms Helen Ledger  
Target Date: 14 July 2021  
Date of extension of time (if agreed): 22 October 2021

**21/01374/FUL**

**Sub-division of the existing dwellinghouse to form 2no dwellings with associated parking.**

**At: Village Farm Ellerbeck Northallerton North Yorkshire**

**For: Cowesby Estate Ventures.**

**This matter is brought to Planning Committee as the proposals represent a Departure from the Development Plan.**

#### 1.0 Site, Context and Proposal

1.1 The site is an unoccupied stone-built farmhouse located to the south of Ellerbeck, a small hamlet north east of Northallerton on the A684. The nearest settlement is Osmotherley to the east by 1.5kms. The red line includes separate road and foot access across Cod Beck and part of the site is located in Flood Zone 2. The site directly adjoins two large agricultural sheds outside the red line boundary, but inside the blue line boundary, showing the area to be in the control of the applicant.

1.2 The site is located outside any development limit and the hamlet has no facilities, save a bus stop. Two bus services (nos 80 and 89) run along the main road nearby the site between Stokesley/Osmotherly and Northallerton/Leeming Bar providing 7-8 buses a day in each direction.

1.3 The proposal is to sub-divide the detached farmhouse into two separate residential units. The planning statement says this would allow the owner, who recently purchased the farmstead and has no need to live on site, the ease of renting out two more marketable smaller dwellings. It is considered the existing house is too large to rent as one and two modest properties which more closely meet local demand will contribute further to the income of the farmstead. It is understood the new owner farms the land associated with this site, alongside their existing estate.

#### 2.0 Relevant Planning History

2.1 None

#### 3.0 Relevant Planning Policies

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP4 - Settlement hierarchy  
 Core Strategy Policy CP2 - Access  
 Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
 Core Strategy Policy CP17 - Promoting high quality design  
 Development Policies DP1 - Protecting amenity  
 Development Policies DP3 - Site accessibility  
 Development Policies DP4 - Access for all  
 Development Policies DP10 - Form and character of settlements  
 Development Policies DP30 - Protecting the character and appearance of the countryside  
 Development Policies DP32 - General design  
 Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation  
 Development Policies DP8 - Development Limits  
 Development Policies DP9 - Development outside Development Limits  
 Development Policies DP43 - Flooding and floodplains  
 Supplementary Planning Document - Domestic Extensions - Adopted 22 December 2009  
 Hambleton Emerging Local Plan  
 The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>.  
 The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.  
 Interim Guidance Note - adopted by Council on 7th April 2015  
 National Planning Policy Framework

#### 4.0 Consultations

- 4.1 Ellerbeck Parish Council - support the application to sub divide the existing house to make two dwellings.
- 4.2 NYCC Highways - No objections subject to a condition on parking.
- 4.3 Environmental Health - Concern expressed on the location of large agricultural buildings adjacent the site, and the potential for these to have an amenity impact. These are within the ownership and control of the applicant. The agent has confirmed that the only amenity impact would be in spring during lambing time. This can be controlled by suitably worded condition to safeguard amenity. No objections subject to a condition on this matter.
- 4.4 Contaminated Land - Based on information submitted the development is considered to be low risk. No objections.
- 4.5 Environment Agency - Environment Agency - No objections, details provided sufficient given the site is in flood zone 2. Recommend flood resilience measures and sign up to the flood warning system.
- 4.6 Cross Country Pipelines - Please note the planning application referenced will not affect SABIC/INEOS high pressure ethylene pipeline apparatus.

4.7 Site notice posted and neighbours notified. No representations received.

5.0 Analysis

5.1 The main considerations are considered to be: i) the principle of the sub-division; ii) impact on the countryside including long distance views, including the character of the local area; iii) highway safety and; iv) amenity.

The principle

5.2 Development in the countryside must be in-line with one of the exceptional circumstances set out in Policy CP4, as well as compliance with all other relevant Local Development Framework policies, for it to be supported. The applicant is not claiming any of the exceptional circumstances for the proposed development and thus the development is classed as a departure from the Development Plan.

5.3 The NPPF paragraphs 79 states that rural housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 80 continues and states that isolated homes in the countryside should be avoided unless one or more of the following circumstances apply, part d) states , 'the development would involve the sub-division of an existing residential dwelling'.

5.4 Following the national guidance in the NPPF, the Interim Policy Guidance (IPG) adopted by the Council in 2015 which is designed to reflect the approach and allow development outside of development limits alongside established villages. The IPG contains a six point criteria list which development must meet in order to gain support from the Guidance, as well as an updated Settlement Hierarchy.

5.5 The IPG states that the Council will support small-scale housing development in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of the following criteria:

1. Development should be located where it will support local services including services in a village nearby.
2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies.

5.6 Criterion 1 of the IPG requires development to be located where it will support services in a nearby village, up to 2 kms away. Ellerbeck is identified as an Other Settlement in the hierarchy that accompanies the IPG, this being the lowest tier. It is some distance away from a Service Centre and set within a rolling landscape dotted with farmsteads. However, it is noted that

Osmotherley is 1.5Kms to the east, which includes several pubs, school, village hall, car garage and shop. It is considered this arrangement makes the settlement of Ellerbeck supportive of the wider facilities available in Osmotherley and as such compliant with Criterion 1.

#### Impact on character

- 5.7 IPG criterion 2 requires development to be small scale. In this instance only one additional dwelling is proposed, which is considered to be an acceptable scale.
- 5.8 Along with the remainder of criterion 2, criteria 3 and 4 require consideration to be given to the impact of the development on the surrounding natural and built form, including the historic environment. LDF policies CP16, CP17 and DP30 and DP32, require high quality design that respects the historic environment, openness of the countryside, local form and character.
- 5.9 The property is a traditional farm house of stone construction of some age, and attractive in its own right and within the setting of the, now more modern farmstead, but within a landscape dip adjacent a tree lined stream, Cod Beck. This building is worthy of retention in this context. Internal and external works are required to make two smaller properties but the scheme retains existing openings with minimal intervention. The external area would need sub-dividing for privacy but given the orientation of the existing house the proposed changes can be done without harming the setting. The site is hidden from public view by the landscape and tree line, the building would be not be extended and would not affect the open countryside.
- 5.10 The site, whilst clearly being part of the wider village form, is not reflective of the linear character of the village. Had this application been for a new building rather than a conversion of an existing dwelling, officers would not be minded to support the proposals in terms of the form of the settlement. However, limited support in terms of the generally sustainable nature of the location can be identified through the Interim Policy Guidance.
- 5.11 There is no evidence the proposal would not be able to be accommodated within existing infrastructure.

#### Flood Risk

- 5.12 The details submitted acknowledge that the development is in flood zone 2 with no history of flooding. It is noted that measures can be retrofitted that will increase resilience as well as signing up to flood alerts. The Environment Agency has not objected but recommends such measures and an informative has been added to assist the applicant in this regard. On this basis it is found the proposal can be adequately safeguarded in times of flood in compliance of policy DP43 and NPPF para 159 and that the sub-division will have no impact of itself in terms of flooding elsewhere.

#### Amenity

- 5.13 Policy DP1 protects existing and proposed residential amenity from matters such as loss of privacy, noise, security and disturbance. The adopted SPD on domestic extensions further elaborates through 5 design principles and includes over shadowing.

- 5.14 It has been explained through the course of the application that the agricultural buildings immediately adjacent are used for storage, and the smaller agricultural buildings, 55m away to the east, would be used for lambing in spring time. These are all in the control of the applicant and in consultation with the Environmental Health Officer, a condition has been developed to control the use of these buildings to their satisfaction.
- 5.15 The proposed floor plan of the two units is well planned and orientated in that there would be no adverse amenity impacts on the two households from one another. There are no other nearby dwellings that could affect or be impacted in terms of residential amenity.

#### Planning Balance

- 5.16 The site is in the lowest tier in the settlement hierarchy but combined with a nearby settlement forms a cluster considered to be generally sustainable. It has good public transport links to a Service Centre. The proposed development would have no impact on landscape character with minimal physical intervention on this stone built traditional farmhouse. The site is considered acceptable under flood risk policies and impact on residential amenity can be adequately controlled. The proposed development is considered compliant with the requirements of the NPPF in terms of the subdivision of an existing dwelling. On this basis the application is recommended for approval.

#### 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **GRANTED** subject to the following condition(s)

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 010, 011, 012 rev A, received by Hambleton District Council on 19.05.21, 30.09.2021 unless otherwise approved in writing by the Local Planning Authority.
3. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the details contained in Drawing 4037-014 and approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
4. The buildings surrounding the site shall not be used other than in accordance with plan no. 012 REV B 01.10.21 received by Hambleton District Council on 30.09.2021

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) CP17 and DP32
3. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
4. To protect and maintain residential amenity and comply with policy DP1

**Parish: Husthwaite**  
Ward: Raskelf & White Horse  
**6**

Committee Date : 21 October 2021  
Officer dealing : Mr Craig Allison  
Target Date: 15 June 2021  
Extension of Time (if agreed): 25 June 2021

**21/01017/MRC**

**Variation of application 18/02661/MRC - Variation of Conditions attached to Planning Consent 16/01987/OUT - Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017**

**At: Former the Garage, Low Street, Husthwaite**  
**For: Mr & Mrs Walker**

**The proposal is presented to Planning Committee as the site is of significant public interest**

1.0 Site, context and proposal

1.1 The site lies on the north side of Husthwaite village. The land previously was a mixture of domestic and commercial use and has a short frontage, about 12 metres to Low Street, the site is deep extending 100 metres and widens out as it extends to the north. Part of the proposal would involve work on or very close to the boundary with the neighbouring dwelling, Carlbury, that stands to the east of the site.

1.2 The neighbouring properties are to the west the public house, and to the east a residential property as noted above, 'Carlbury'. The land to the north is in agricultural use. To the south across the village street are residential properties.

1.3 The site lies within Husthwaite Conservation Area. The front of the site is within the Development Limits however much of the site is beyond the Development Limits.

1.4 Following an enforcement investigation, it became evident that Plot one had been constructed southwards (further forward) by 160mm; moved westwards (away from the neighbouring property Carlbury) by 620mm; the rear garden of plot one increased in size; and the double garage and parking repositioned to be shared with Plot three. With the parking position now located adjacent to plot three rather than adjacent to plot one.

1.5 Plot three the finished floor levels were raised by 380mm; the double garage and parking repositioned to be shared with Plot one; and roof lights on the front and rear elevations have been moved down the roof slope. These works have already been undertaken on site and therefore the applicant is seeking retrospective planning approval for these works, by subsequently varying condition 14 of planning approval 18/02661/MRC. The initially planning approval was for three dwellings, and two of the dwellings have been completed, Plot one and Plot three with Plot two work yet to start on the construction of this dwelling.

- 2.0 Relevant planning history
- 2.1 16/01987/OUT - Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017 – Approved 26 January 2018
- 2.2 18/02661/MRC - Variation of Conditions attached to Planning Consent 16/01987/OUT-Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017 – Approved 15 February 2019. This approval granted amendments to the layout of the site, and changes to the position of windows on the various plots on the site.
- 2.3 19/01328/REM - Application for the approval of reserved matters considering landscaping relating to planning application 18/02661/MRC - Variation of Conditions attached to Planning Consent 16/01987/OUT-Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017 – Approved 24 September 2019

#### Planning Enforcement History

- 2.4 The allegation of the development not being built in accordance with the approved plans was raised with the Council on the 15 December 2020
- 2.5 The site was visited on the 17 December 2020, at that time the dwellings were almost complete, however further investigative work would be required. The site was re-visited on the 6 January 2021 and the site was measured and from the measurements taken on site it was evident that the development had not been constructed in accordance with the approved plans. The owners disputed the findings and the Council's surveyors in the Corporate Services team visited the site to undertake further measurements. This again confirmed that the site was not in accordance with the approved plans. The owners still did not concede to this fact and appointed their own surveyor to undertake measurements on the site, this concluded that there was also a breach and subsequently this application was submitted before the Council for consideration.

#### 3.0 Relevant planning policies

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;



Core Strategy Policy CP1 - Sustainable development  
 Core Strategy Policy CP2 - Access  
 Core Strategy Policy CP4 - Settlement hierarchy  
 Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
 Core Strategy Policy CP17 - Promoting high quality design  
 Development Policies DP1 - Protecting amenity  
 Development Policies DP3 – Site Accessibility  
 Development Policies DP4 – Access for all  
 Development Policies DP6 – Utilities and infrastructure  
 Development Policies DP9 - Development outside Development Limits  
 Development Policies DP10 – Form and character of settlements  
 Development Policies DP17 – Retention of employment sites  
 Development Policies DP28 – Conservation  
 Development Policies DP29 - Archaeology  
 Development Policies DP30 - Protecting the character and appearance of the countryside  
 Development Policies DP31 – Protecting natural resources: biodiversity/nature conservation  
 Development Policies DP32 – General Design  
 Development Policies DP33 - Landscaping

3.3 Hambleton emerging Local Plan was considered at Examination in Public during Oct-Nov 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>  
 The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

#### 4.0 Consultations

4.1 Hushwaite Parish Council wish to see the application refused for the following reasons:

- Various amendments were agreed during the course of the original application which meant the reduction in height of the proposed dwellings and consideration given to neighbours concerns. However, the further amendments shows that this has been totally disregarded.
- Also by moving Plot 1 nearer to Cleveland House, the Parish Council are concerned that emergency vehicles will be unable to access Plots 2 & 3 through the reduced entranceway.

4.2 North Yorkshire County Council (Highways) have commented on the application and recommended that condition 13 imposed on the original application is re imposed if planning permission is granted.

4.3 Yorkshire Water have no comments to make in regard to the application as the details of drainage have already been agreed under planning reference 18/02661/MRC.

- 4.4 Environmental Health (Contamination) has no comments to make in regard to this application.
- 4.5 A site notice was posted, and neighbours were consulted. Eight letters of support have been received with their comments summarised below:
- The changes to the scheme are minimal and do not impact the overall development significantly
  - The build has been completed to a high standard and is better than what was previously on the site
  - In regard to Plot one, the small degree of movement to the south is so small as to be inconsequential. The move to the west, whilst more significant, it creates a more comfortable gap to the adjacent property of Carlbury
  - Although reduces the gap between Plot One and Cleveland House, it has a clearance of 4.2 metres which is more than adequate
  - The revision of garden space, garaging and parking for both plots does not notably affect the amenity of either property or affect the character of the scheme
  - In regard to Plot 3, the land slopes progressively downwards to the north, plot 3 is notably lower than plot 1, Cleveland House and Carlbury. In fact Carlbury is very much elevated in respect of Plot 3 as the land rises up the village street frontage to the east. Therefore, there is no overshadowing or intrusion of plot 3 to any of the properties in the vicinity.
  - For the street scene generally the move of plot one does not change the overall character of the scheme and the glimpsed view of plot three from the highway is typical of many similar rear plot developments elsewhere in the village.
- 4.6 One letter of objection has been received with their comments summarised below:
- The building on plot one is substantially higher than was represented by the application at the time of the original outline planning application. It is higher than the pre-existing barn by more than metre
  - The building has been built significantly further forward and even higher than originally approved, which has resulted in loss of light to existing side windows in the adjacent property.
  - Plot three has been built significantly higher which has resulted in a detrimental impact on Carlbury and the enjoyment of the property adversely affected.
- 4.7 Following the comments received above, the Council sought further clarity and further detailed plans to demonstrate the change from the previously approved scheme against what has been constructed on site. Following receipt of these amended plans a further consultation took place.
- 4.8 No further comments were received from North Yorkshire County Council (Highways) and Husthwaite Parish Council.

- 4.9 Yorkshire Water have no further comments in regard to this application
- 4.10 Environmental Health (Contaminated Land) have no further comments regarding this application
- 4.11 One letter of objection has been received regarding the application with their comments summarised below:
- The amended details provided are still not an accurate reflection of what is currently on site, and there are errors in the plans and not a fair reflection of what is currently constructed on site.

## 5.0 Analysis

- 5.1 The key determining issues are the principle of development; whether the proposed amendments are acceptable; impact on the character of the area; impact on heritage assets; and impact on residential amenity.

### The Principle of Development

- 5.2 The principle of residential development on the land has been established and there is an extant consent. Under this application, the Local Planning Authority may amend or remove conditions but may not amend any other part of the permission.

### The Impact on the Character of the Surrounding Area

- 5.3 The proposed amendment will have a minor impact on the appearance of plots 1 and 3. Given the scale of the changes it is considered the amendments are acceptable in this respect as they are neither positive or negative and the impacts are neutral. It is therefore considered that the development does not affect the character and appearance of the area and is accordance with Policy CP17 and DP32 of the Council's Local Plan Policies.

### Heritage Assets

- 5.4 The application site is situated within the Hustwaite Conservation Area and in close proximity to the Grade II\* Listed Church of St Nicholas and has the potential to impact upon the setting of the Conservation Area and the setting of the listed building.
- 5.5 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining applications for development which affects a Listed Building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.6 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 5.7 The National Planning Policy Framework at paragraph 202 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset and requires that harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the building. In this case the proposal does alter some minor changes to the height of the building alongside and the position of the front property and therefore has the potential to impact upon the setting of the Conservation Area.
- 5.8 Policy DP28 states that conservation of the historic heritage will be ensured by preserving and enhancing listed buildings. Development within or affecting the feature or its setting should seek to preserve or enhance all aspects that contribute to its character and appearance. This is further reiterated within Policy CP16 which states that development or initiatives will be supported where they preserve and enhance the District's natural and man-made assets.
- 5.9 When the development was originally approved in 2017 considerable importance and weight was given to the desirability of preserving and enhancing the character and appearance of the heritage asset. It has been found that the scheme will protect and enhance the Conservation Area and setting of the Listed Church of St. Nicholas. As it is considered that the proposed changes to the properties are minor in nature it is considered that no harm would be caused to the heritage assets and is in accordance with the overarching principles of the NPPF.

#### Impact on of Amenity of the Area

- 5.10 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.11 The policy outlines that development must not unacceptably reduce the existing level of amenity space about buildings particularly dwellings, and not unacceptably affect the amenity of residents or occupants. As the amendments to the scheme are likely to cause most impact to the residential property of Carlbury then particular assessment has been made on the impact to this property. During the application, the Planning Officer visited the residential property of Carlbury to assess the impact the development is having on this property.

#### Plot one

- 5.12 As stated previously the alterations to plot one included moving the property further forward by 160mm and moving the property further away from Carlbury by 620mm. It is noted by moving the property further forward this brings the property in front of 2 windows of the Carlbury.
- 5.13 Within the property of Carlbury there are two windows within two rooms which this affects, the first being on the ground floor used as a utility room. This is not a principal room and it is considered the position of the property of Plot One causes no significant harmful impact on neighbouring residential amenity.

- 5.14 The second window is on the first floor and serves a bedroom. The bedroom has three windows, one window is affected by the development; a second window on the same elevation but further away from the development; and a window to the rear of the property looking over the rear garden of Carlbury are not affected.
- 5.15 It is considered that the main window affected would result in some loss of light to the main property, however since the same bedroom has a further two windows this would not result in a significant loss of light to the bedroom. It is considered that the revised position of the new dwelling does not result in a significant harmful loss of light to Carlbury.
- 5.16 Bringing the building on Plot One further forward results in a loss of outlook. Bringing the building forward and further away from the Carlbury this loss of outlook is greater than the previously approved scheme. However, the window does have an outlook and the view is not completely blocked by the adjacent property, only a minimal loss of outlook has occurred. A balanced judgement must be made, it is found that the minimal changes are not significantly harmful, the proposal adequately protects the amenity of neighbours as required by LDF Policy DP1 and refusal of the application cannot be justified.

#### Plot Three

- 5.17 In regard to Plot Three the main issues of concern are in regard to the raised floor levels of the property by 380mm and the repositing of roof lights facing Carlbury. This property is located to the rear of the site. When viewed from Low Street the property is not highly visible. However, plot three is visible from the first floor of Carlbury with plot three positioned approximately 20 metres away from the rear wall of Carlbury. Calbury's rear garden is positioned adjacent to the development site. The raised finished floor level of the property has a greater impact on the neighbouring residential property than the approved scheme.
- 5.18 The level of the site from Low Street, rises to plot one and then the land slopes downwards towards Plot three. Prior to the construction of the dwellings, a garage on the site had a ridge height of 72.92 (above sea level). The newly constructed dwelling has a ridge height of 73.15. Therefore, plot three is approximately 20cm higher than what was previously situated on site and is subsequently 40cm higher than what was previously approved on the site. Also, within the roof of plot three additional roof lights have been added which can also be viewed from Carlbury. The increased height, whilst higher than approved has very little impact on outlook from Carlbury as Carlbury is approximately 20 metres away from the neighbouring property and the roof lights would not affect privacy.
- 5.19 As the Plot 3 is located adjacent to the garden of Carlbury the increased levels have an impact on the enjoyment of the garden. However, substantial planting has been undertaken along this boundary edge (albeit by the neighbour), this planting provides a significant screen to the development. It is considered that even though the planting does provide screening, the development does still cause some overbearing impact on the occupiers of Carlbury. However, the increased height does not result an overbearing impact that is so significant that

it can affect the amenity of the occupiers of Carlbury to breach the terms of LDF Policy DP1 to adequately protect amenity.

View of previous conditions from 18/02661/MRC

- 5.20 Where conditions are needed to continue to control the development they are to be reimposed. This requires the following conditions to be reimposed from the earlier permission regarding archaeology, obscure glazing, landscaping, arboriculture method statement, visibility splays, parking, construction management plan, external lighting, boundary treatments, and the approved plans which should be varied as subject to this application.

Conclusion

- 5.21 It is considered that the proposed development of the amendments would not cause any significant impact on the character and appearance of the area and would cause no harm to the heritage assets. However, it can be considered that there would be some harm on neighbouring residential amenity due to the position of Plot One built further forward and impact on side windows of Carlbury but this harm is not significant and does not breach the terms of LDF Policy DP1.

## 6.0 Recommendation

That subject to any outstanding consultations the application be **GRANTED** subject to the following condition(s):

1. No development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.
2. The windows on the west elevation of buildings on Plot 1 and Plot 3 shall at all times be glazed with obscured glass.
3. No above ground construction work on the unbuilt plot 2 shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development have been submitted in writing to the Local Planning Authority for approval and samples have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.
4. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme required by condition 2, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.

5. The development hereby approved shall be carried out in accordance with the Arboricultural Method Statement ref ARB/CP/1531; dated November 2018.
6. The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under details supplied within 18/02661/DCN.
7. The details required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation, shall be implemented in accordance with details supplied within 18/02661/DCN.
8. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) at 43m until splays are provided giving clear visibility of metres measured along both channel lines of the major road 2.4m from a point measured 1.05m metres down the centre line of the access road. The eye height will be 0.6m and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
9. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing, 'proposed site plan' received 14th February 2019. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
10. The details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site shall be implemented in accordance with details supplied within 18/02661/DCN. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.
11. There approved method statement of construction shall be carried out in accordance with the approved details provided within 18/02661/DCN and the approved areas shall be kept available for their intended use at all times whilst construction works are in operation.
12. No external lighting shall be installed other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.
13. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings and as supplemented by the details required by condition 2 of this permission:

Proposed Floor Plan (Drawing Number: 20004-110-C02)  
Proposed Elevation Plan (Drawing Number: 20004-131-C02)  
Plot one and Barn two Elevations (Drawing Number: 210416)  
Site Location Plan  
Proposed Block Plan (Drawing Number: 20004-107-P00)  
Proposed Elevations (Drawing Number: 20004-130-C02)  
Proposed Floor Plan (Drawing Number: 20004-310-C02)  
Proposed Elevations (Drawing Number: 20004-331-C02)  
Landscaping Plan (Drawing Number: 210416)  
Proposed Floor Plan (Drawing Number: 20004-311-C00)  
Proposed Elevations (Drawing Number: 20004-330-C03)  
Proposed Floor Plan (Drawing Number: 20004-111-C01)  
Site Plan (Drawing Number: 20004-105-P00)

All received on the 20 April 2021; and

Survey Site Sections (Drawing Number: 00296-1000)  
Plot one as approved windows (Drawing Number: 20004-SK01)  
Plot 1 As Built Foot Print and Elevation Comparison to approved  
(Drawing Number: 20004-105-P01)

Received on the 5 August 2021.

14. The details relating to boundary walls, fences and other means of enclosure for all parts of the development shall be implemented in accordance with details provided within 18/02661/DCN. The development shall be implemented in accordance with the approved details.

The reasons for the above conditions are:-

1. This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest and the Hambleton Local Development Framework Policies CP16 and DP28.
2. To safeguard the amenities of occupiers of adjoining residential property in accordance with Local Development Framework Core Strategy and Development Policies CP1 and DP1.
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy CP1, DP1, CP16 and DP30.
5. To safeguard the visual amenity of neighbourhood by ensuring the retention of existing trees in accordance with Local Development Framework Policy DP33.



6. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
7. In accordance with Policy CP1 and in the interests of highway safety.
8. In accordance with Policy CP1 and in the interests of road safety
9. In accordance with Policy CP1 and DP1 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
10. In accordance with Policy CP1 and DP1 and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
11. In accordance with Policy CP1 and DP1 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
12. In order that the Local Planning Authority can consider the impact of the proposed lighting scheme and avoid environmental pollution in accordance with Local Development Framework Policies CP1 and DP1.
13. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) CP1, DP1, CP16, CP17, DP28, DP30 and DP32.
14. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.

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**Parish: Kirkby Fleetham With Fencote**  
Ward: Morton on Swale  
**7**

Panel Date : 21 October 2021  
Officer dealing : Mr Andrew Cotton  
Target Date: 3 May 2021  
Date of extension of time (if agreed): 29 September 2021

**21/00582/OUT**

**Outline planning application (some matters reserved) for the construction of 5 No. residential dwellings with access from Lumley Lane.  
At: Land at Friars Garth Lumley Lane Kirkby Fleetham North Yorkshire  
For: Greensit.**

**The application has been referred to Planning Committee by the Planning Consultative Panel**

1.0 Site, Context and Proposal

1.1 The application site lies to the west of Kirkby Fleetham on the northern side of Lumley Lane. The application site, measuring approximately 0.55 hectares, forms a small section in the south eastern corner of a wider open agricultural field which comprises part of the agricultural holding at Friars Garth Farm.

1.2 The proposal is in outline considering access and layout for the construction of 5 detached dwellings. A new vehicle and pedestrian access would be created from Lumley Lane.

1.3 The site lies outside of the defined settlement boundary of Kirkby Fleetham and just beyond the national speed limit signs on Lumley Lane. The site is not in the village conservation area.

2.0 Relevant Planning and Enforcement History

2.1 None relevant

3.0 Relevant Planning Policies

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP8 - Type, size and tenure of housing

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Core Strategy Policy CP21 - Safe response to natural and other forces

Development Policies DP1 - Protecting amenity

Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP10 - Form and character of settlements  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation  
Development Policies DP32 - General design  
Interim Guidance Note - adopted by Council on 7th April 2015  
Hambleton Emerging Local Plan  
The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>.  
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.  
National Planning Policy Framework

#### 4.0 Consultations

- 4.1 Parish Council - Concerns regarding surface water disposal from the site, flooding issues due to water run off from higher land at the rear, potential light pollution, uncertain adequacy of sewage capacity in the existing system. As regards the design of the outline plan it was suggested a smaller linear development might be preferable, although discussion identified advantages for a cluster development as outlined.  
This application is seeking approval under the IPG and it is an important site for the future of Kirkby Fleetham. Therefore, whilst the Parish Council has minuted its initial response, it has also requested from Hambleton District Council an extension to its response period from April 13th until after its next meeting on the 15th when further comments could be added to our response.  
Updated comments 22/9/21 - No further comments following the archaeological evaluation.
- 4.2 NYCC Highways - No objection subject to conditions.
- 4.3 NYCC Heritage Services - Objection. Insufficient information to determine the heritage impacts of the proposal, further information would be required prior to determination in accordance with paragraph 189 of the NPPF.  
Updated comments 15/9/21 - Following further archaeological evaluation no objection subject to conditions.
- 4.4 MoD - No safeguarding objection at this stage.
- 4.5 Yorkshire Water - No objection subject to conditions.
- 4.6 Public comments - Two objections making the following comments:
- o Development is outside of development limits;
  - o No need identified for additional housing within Kirkby Fleetham;
  - o Access would be taken from a 60mph speed limit road with no pavement or streetlighting and as such could be hazardous;
  - o Highways safety concerns;

- o Light pollution which would be exacerbated due to the layout extending into the field rather than being linear in form;
- o Up to date need assessment should be carried out before any future proposal for housing are considered; and
- o The site is not allocated in the emerging local plan, nor are there any housing allocations within Kirkby Fleetham.

Four neutral representations raising the following points:

- o The application site is outside development limits/village boundary;
- o The front of the site and Lumley Lane floods, while there has been an attempt to remedy this it has not been successful;
- o Surface water drainage problems from increased run off;
- o Neighbouring stables and muck heap not shown on the site plans;
- o Impacts from additional streetlighting and the light pollution this would cause;
- o This is a 60mph road at this point with no footpaths into the village;
- o Loss of privacy/inadequate privacy for future occupiers due to orientation of plot 4;
- o No clear explanation of the demographic this development will be marketed towards;
- o Sewage issues as a result of the local network operating at capacity;
- o Visual amenity impacts as a result of a loss of the view of the ridge and furrow formation in the field from Lumley Lane;
- o Layout is similar to a typical farmstead and as such would be sympathetic to its location on the edge of the village; and
- o 2-3 bed homes would encourage families to the area but larger executive type homes are not needed in Kirkby Fleetham.

One letter of support raising the following points:

- o Houses proposed as a mix of houses and low cost housing not successful;
- o People need places to live and this will be a small but significant area overlooked in the past.

## 5.0 Analysis

5.1 The main issues to consider are: (i) the principle of development in this location; (ii) the impact on the character and appearance of the surrounding area; (iii) the impact on the amenity of neighbouring occupiers; (iv) highway safety; (v) heritage; and (vi) ecology.

### Principle

5.2 The site is beyond the Development Limits identified in the Local Development Framework (LDF) for Kirkby Fleetham. Therefore, development is only considered acceptable under LDF policies in exceptional circumstances, set out in Policy CP4. The applicant does not claim any of the exceptional circumstances identified in that policy and as such the proposal is a departure from the Development Plan. However, it is also necessary to consider more recent national policy in the form of the NPPF. Paragraph 78 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby".

5.3 To ensure consistent interpretation of the NPPF alongside Policies CP4 and DP9, the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and relates to new housing in villages.

5.4 The IPG states that the Council will support small-scale housing development in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of the following criteria:

1. Development should be located where it will support local services including services in a village nearby.
2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies.

5.5 In the Settlement Hierarchy reproduced in the IPG, Kirkby Fleetham is identified as an 'Other Village'; however it is also identified as part of a cluster of villages with Kirkby Fleetham and Great Fencote and is therefore considered a sustainable location for development. As such, the proposal satisfies criterion 1 of the IPG that development must provide support to local services including services in a village or villages nearby.

Character and appearance

5.6 IPG criterion 2 requires development to be small scale. The guidance indicates this is normally up to five dwellings. However, that does not automatically mean that five dwellings would be appropriate in every settlement. In this case 5 dwellings are proposed.

5.7 Along with the remainder of criterion 2; criteria 3 and 4 require consideration to be given to the impact of the development on the surrounding natural environment and physical built form. This is consistent with other policies in the LDF. In making this assessment it is noted that the application is in outline considering access and layout only with all other matters reserved.

5.8 The application site comprises a roughly L-shaped piece of agricultural grazing land with Lumley Lane running to the south, a field access and 26

Lumley Lane to the east and open countryside to the north, west and south (with the exception of 2 properties located further to the south) beyond Lumley Lane. The site is physically separated from the settlement by an established boundary hedge to the eastern boundary with the field access and 26 Lumley Lane, which itself lies outside of the settlement boundary, further to the east. A small wooden fence defines the southern boundary of the site from Lumley Lane. However, the site is relatively open to the north and west and wider open countryside beyond. The built form of Friar Garth with its large agricultural buildings and silo typical of this type of agricultural site are visible further to the west. The site is set away from the historic core of the settlement.

- 5.9 The proposed layout would result in the creation of the access road perpendicular to Lumley Lane with the development plots set out in a non-uniform layout, which while visibly different from the linear layout of the closest residential properties to the east on Lumley Lane, it would create a small cluster of buildings with an agricultural 'farm yard' feel which would relate well to its wider surroundings. Additionally, it is noted the form of the village is not entirely linear, given the relatively large 1980's development of Village Way/Village Fold, and as such is considered not to result in a detrimental impact on the existing built environment and be reflective of the built form and existing character of the village.
- 5.10 The proposed introduction of 5 dwellings is considered to be appropriate for this location just outside of the settlement boundary, resulting in a small extension of the built form of the village in a manner which would not result in harm to the character and appearance of the surrounding natural landscape.
- 5.11 Careful consideration should be given to the scale and design of the dwellings within this location, given its relationship with the open countryside.
- 5.12 On balance the proposal is considered to accord with criteria 2, 3 and 4 of the IPG.

#### Neighbour Amenity.

- 5.13 The nearest residential property is located to the east, 26 Lumley Lane. Given the size of the site it is considered that there is scope for a design to be achieved that would not result in an adverse impact to residential amenity for exiting occupiers and accord with Policy DP1. However, it must be considered there is an existing stable and midden located to the rear of 26 Lumley Lane which is in relatively close proximity to plot 4 in particular, which could give rise to adverse impacts upon the amenity of future occupiers.

#### Highways

- 5.14 The Highway Authority has no in principle objection to the proposed development subject to a number of conditions. It is considered the proposed access arrangement would not have detrimental impact upon highways operation or safety. The proposed development is considered to comply with policy DP4 in these terms.

#### Heritage

- 5.15 Heritage assets, as stated within paragraph 184 of the NPPF, are an irreplaceable resource that should be conserved in a manner appropriate to their significance.
- 5.16 The NPPF at paragraph 189 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset and requires that harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the building (or site). Paragraph 193 of the NPPF states that great weight should be given to the asset's conservation.
- 5.17 No supporting information was initially submitted with reference to heritage and archaeology. NYCC Heritage Services Principal Archaeologist commented on the application stating that the site is at the western end of the medieval settlement of Kirkby Fleetham. The field in question contains earthwork remains. The northern part of the site contains ridge and furrow, which is broad and gently curving, suggesting a medieval date. The frontage of the site along the road does not contain ridge and furrow and there are hints of other earthworks. The ridge and furrow terminates at a distinct embankment. The break in the ridge and furrow between this embankment and the street frontage suggests that this part of the site may have contained a part of the medieval settlement which subsequently became deserted. This pattern of growth and contraction of medieval settlement is noted across Yorkshire from the 14th century onwards due to factors such as plague, crop failure and war.
- 5.18 Additional information was requested and submitted in based on archaeological trial trenching, heritage assessment and combined geophysical and earthwork survey at the site.
- 5.19 NYCC Heritage Services Principal Archaeologist subsequently commented that the trial trenching has demonstrated that the earthworks present on site are either natural or agricultural in origin and do not form a constraint on the development. The trial trenching did note an organic peat soil horizon that is likely to be early prehistoric in date. The report for the work states that a sample of peat from the site has been sent for analysis to inform of its significance and the results of this would inform whether or not any further peat sampling or analysis of existing samples would be beneficial. This minor piece of outstanding work could be secured by a planning condition as the peat deposit is of research interest rather than forming a constraint on the development.
- 5.20 In conclusion, subject to an appropriately worded condition there are no archaeological constraints to the site being developed.

#### Ecology

- 5.21 Policy DP31 of the Development Policies DPD states that 'Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation...Support will be given...to the enhancement and increase in number of sites and habitats of nature conservation value'.



5.22 An Ecological Appraisal has not been carried out. However, given that the site is currently agricultural land and as such could be grazed or given over to the plough at any time, it is not considered that an ecological appraisal is required at this stage. However, while it is noted that the site comprises semi-improved grassland which is likely of low ecological value, the loss of an open pasture to built development, including the introduction of made surfaces could likely have some ecological impacts and a preliminary ecological appraisal and biodiversity enhancements could be secured through an appropriately worded condition. The council recommends that in accordance with NPPF para 175d, proposals should demonstrate a 'measurable' net gain in biodiversity. This is transposed to local policy and the emerging Environment Bill which is expected to put a requirement for all proposals to achieve a 10% net gain in biodiversity.

#### Planning Balance

5.23 In summary the proposal would create additional dwellings in a sustainable location without causing harm to the form and character of the village and without harm in terms of residential amenity or highway safety. The scheme is found to result in social gains through the provision of new housing, the economic impact of the development would be small but positive and the environmental impacts as a consequence of the development are on balance found to be positive. No other material considerations would preclude a grant of planning permission. The proposed development is found on balance to be acceptable.

#### 6.0 Recommendation

6.1 That subject to any outstanding consultations the application be **GRANTED** subject to the following condition(s)

1. Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Three years from the date of this permission ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

2. The development shall not be commenced until details of the following reserved matters have been submitted to and approved by the Local Planning Authority: (a) the design and external appearance of the building, including a schedule of external materials to be used; (b) the landscaping of the site (including tree survey, method statement and tree protection measures); (c) the scale of the proposed buildings and spaces including parking and any external storage areas.

3. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) labelled '5 New Dwellings' as received by Hambleton District Council on 8th March 2021 unless otherwise approved in writing by the Local Planning Authority.

4. Prior to their use on the site, details and samples of the materials to be used in the external surfaces of the development, hereby approved, shall be provided on site for the inspection and written approval of the Local Planning Authority.
5. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
6. The development must not be brought into use until the access to the site at Lumley Lane has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:
  - o Any gates or barriers must be erected must not be able to swing over the existing or proposed highway.
  - o Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed and maintained thereafter to prevent such discharges.
  - o The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
  - o Measures to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details.
7. There must be no access or egress by any vehicles between the highway and the application site at Lumley Lane, Kirkby Fleetham until splays are provided giving clear visibility of 215 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
8. There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) at Lumley Lane, Kirkby Fleetham until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
  - o vehicular, cycle, and pedestrian accesses;
  - o vehicular and cycle parking;
  - o vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and;
  - o loading and unloading arrangements.

9. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works: 1. details of any temporary construction access to the site including measures for removal following completion of construction works; 2. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway; 3. the parking of contractors' site operatives and visitor's vehicles; 4. areas for storage of plant and materials used in constructing the development clear of the highway; 5. details of site working hours; 6. details of the measures to be taken for the protection of trees; and 7. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue and/or queries received from members of the public.

10. The development hereby approved shall be for up to five dwellings only.

11. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

12. 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.

13. Prior to commencement of development, a Preliminary Ecological Appraisal shall be submitted to and approved in writing by the Local Planning Authority.

The reasons for the above conditions are:-

1. To ensure compliance with Section 92 of the Town and Country Planning Act, 1990
2. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.
3. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) DP23.
4. In the interest of visual amenity.
5. To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

6. To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.
7. In the interests of highway safety.
8. To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.
9. In the interest of public safety and amenity.
10. For the avoidance of doubt and to ensure that the scale of development is appropriate to the location and to accord with policies DP30 and DP32.
11. In the interest of satisfactory and sustainable drainage.
12. To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.
13. To provide adequate safeguards for the protection of any protected species or habitats existing on the site in accordance with policy DP31.

**Parish: Northallerton**

Committee Date: 21 October 2021

Ward: Northallerton North and  
Brompton

Officer dealing: A O'Driscoll

**8**

Target date: 18 March 2021

**20/02689/HYB**

**Hybrid Planning Application comprising:**

**1) Full planning permission is sought for the demolition of the existing farmhouse and buildings and construction of a commercial development comprising of 21,000sq ft (1951 sq.m) of trade counter space (B8), a 3,777sq ft (351 sq.m) drive thru (E b) and sui generis and associated infrastructure comprising of carparking, landscaping, drainage and construction of an access road (Phase A1) from the Darlington Road to cross enable Phase 1B and 2.**

**2) Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up to 15,000sq ft (1395 sq.m) E g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2.**

**At: Land South East of Moor Close, Darlington Road**

**For: Beckwith Knowle Developments Ltd**

**Consideration of this application was deferred at the meeting of 26<sup>th</sup> August in order to obtain additional information.**

1.0 The application was deferred at the August Planning Committee owing to a number of concerns about the proposed development. The first part of the following report provides an up-date on the matters of concern. The remainder of the report remains as previously reported to Members in August.

1.1 The matters of concern related by Members comprised:

- timetable of infrastructure delivery (including highways and utilities)
- safety measures in respect of the balancing pond
- expected job creation on employment land
- bat protection measures

1.2 The matters of concern were put to the agent who provided the following responses.

Infrastructure delivery

1.3 The agent has requested that this matter be dealt with via a pre-commencement condition. It is argued that this would allow for discussion with the utility companies with the benefit and certainty of a planning consent. It would also reflect the requirements of specific occupiers within any

development scheme and allow time to incorporate and reflect the final layout.

- 1.4 The following wording is recommended: Prior to the commencement of development hereby approved, a scheme for the delivery of infrastructure and utilities across all phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

- Access and utilities infrastructure including layout and connection points
- Timing and/or trigger points for implementation

The development shall thereafter be constructed in accordance with the approved details.

#### Balancing Pond Safety

- 1.5 The agent has submitted drawing Ref 5740-JPG-SW-XX-DR-D-1400 S2 P10 which indicates the provision of a picket fence surrounding the balancing pond. It should also be noted that in response to the MOD the drainage consultant for the application has confirmed that the basin will remain dry except immediately after an extreme event.

#### Job Creation

- 1.6 In terms of estimated job creation the agent has provided the tables below detailing the job density range for the hybrid scheme. The numbers are based either on figures supplied by their clients (i.e. for the drive-through) or calculated using the same assumptions used by the Council for the Employment Land Review 2016 on which the Emerging Local Plan is based.
- 1.7 Based upon 3 acres (excluding Trade and Offices) allocated to Prime Frontage Space and Drive Throughs, this would accommodate approximately 4750m<sup>2</sup> of B2 space which would potentially create 132 jobs. The Petrol Filling Station and two Drive Throughs would create 142 full or part time jobs. The scheme as a whole, as proposed creates 715-782 jobs.
- 1.8 The agent also points out that the uses proposed will provide a variety of employment opportunities for a broader range of skill sets.

1.9

<b>Proposed scheme</b>	<b>Employees Lower Range</b>	<b>Employees Upper Range</b>
Full	92.1	92.1
Outline	622.57	689.65
Total	714.67	781.75

15475-1000C Proposed Site Masterplan	<b>Element of Scheme</b>	<b>Use - Ratio based on Employment Land Review Final Report published September 2016 (or figures provided by Client*)</b>	<b>Floorspace</b>	<b>Employees</b>
Unit 1	Full	Drive Thru*	351 sq.m GIA	Circa 65 new full and part- time jobs
Unit 2	Full	Trade Unit/s (B8)	557 sq.m GIA	7.74 employees per sq m
Unit 3	Full	Trade Unit/s (B8)	1,394 sq.m GIA	19.36 employees per sq m
Unit 4	Outline	Petrol Filling Station*	465 sq.m GIA	Expect at least 12 people employed
Unit 5	Outline	Drive Thru*	167 sq.m GIA	Circa 65 new full and part- time jobs
Unit 6	Outline	Office Units (B1a)	465 sq.m GIA	35.77-58.13
Unit 7	Outline	Office Units (B1a)	465 sq.m GIA	35.77-58.13
Unit 8	Outline	Office Units (B1a)	465 sq.m GIA	35.77-58.13
Unit 9	Outline	B2	3,716 sq.m GIA	103.22
Unit 10	Outline	B2	9,290 sq.m GIA	258.1
Unit 11	Outline	B2	3,252 sq.m GIA	90.33
Unit 12	Outline	B2	1,858 sq.m GIA	51.61

#### Bat protection measures

- 1.10 With regard to bat protection the agent has suggested the following condition:  
 “The development shall be carried out in accordance with the recommendations contained in the Bat Survey and Report by JCA dated 26 November 2020. No works to the buildings to be demolished, or trees identified as having more than negligible suitability, shall take place until a Bat Mitigation License has been applied for from Natural England”.

## 2.0 Site Context and Proposal

2.1 The application site is a green-field site located to the northern extremity of the settlement of Northallerton. To the west of the site is the East Coast mainline, to the South the Standard Way industrial estate, to the east the A167 Darlington Rd and to the north open countryside.

2.2 The southern part of the application site is allocated in the LDF for employment use under policy NM5E which states:

For development to take place on this site, the following will be required:

- high quality B1 uses will be required on this site and on the equivalent parts of Site NM5D, particularly at the prominent areas of the sites adjacent to the proposed roundabout junction, to form a suitable 'gateway' into Northallerton. B2, B8 and other suitable employment uses (excluding town centre uses) would also be acceptable within the site subject to location;

- access to this site will be gained directly from a roundabout at the proposed junction between the A167 Darlington Road and the proposed Link Road.

2.3 The site has not, so far, come forward for development. The allocation site has been expanded to the north and included for employment uses in the Emerging Local Plan under NOR2 which states:

### Access and highways

- Vehicle, cycle and pedestrian access will be taken from the existing roundabout junction with the A167 Darlington road and North Moor Road.
- Works are required to extend and improve pedestrian and cycle links, including to the local centre located to the east, the extension of the footway and lighting along Darlington road, appropriate pedestrian crossings and street lighting, where necessary, to serve the site.

### Flood, drainage and water management

- Part of the site towards the southwestern boundary is vulnerable to surface water flooding. A site specific flood risk assessment will be required to determine the nature and scope of any mitigation necessary.

### Biodiversity and landscaping

- A preliminary ecological appraisal and possible ecological impact assessment will be required. Mitigation will be required to deal with any risk of habitat loss. Existing features should be retained, including hedgerows and mature trees, and boundaries features enhanced to screen views of the site from the north and east. Habitats must be protected from adverse impacts, such as obtrusive light.

### Other planning considerations

- The site is in a minerals safeguarding area; safeguarding considerations will need to be adequately addressed with engagement with North Yorkshire County Council.



#### Utility and service provision

- Early engagement will be required with the utility and service providers in order to establish available supply capacity to the site and, depending on the type of proposed development, whether reinforcement will be required:
  - Water - Yorkshire Water have identified that reinforcement of the sewerage network is likely to be required and that detailed investigation into the capacity of the water supply and waste water infrastructure is required. Therefore it is recommended that early consultation with the water authority is necessary.
  - Works adjacent to the railway - If any site excavations/ piling/ buildings are proposed to be located within 10 metres of the railway boundary a method statement will need to be submitted to Network Rail's Asset Protection Engineer for approval.

#### Design

- A planning and development brief for the site should demonstrate how the development will successfully integrate with the existing employment area as well as addressing the constraints and opportunities of the site. Scale, massing and density considerations will be expected to have regard to the original character of the area.

2.4 The application is a hybrid application for the entirety of the Emerging Local Plan allocation site with full permission sought for the provision of trade counter space, a drive through restaurant and the access road for the wider site. Outline permission is sought for a petrol station with retail space, a further drive through, office and industrial space.

#### 3.0 Relevant Planning and Enforcement History

3.1 20/01681/SCR - Request for screening opinion for Environmental Impact Assessment (EIA) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (As amended) in respect of a Hybrid application for Full Planning for construction of up to 351m<sup>2</sup> trade counter B8 use, up to 557m<sup>2</sup> drive thru (A1,A3,A5) and infrastructure and an Outline application for four pump petrol station with up to 465m<sup>2</sup> sui generis and A1 use, drive through up to 167m<sup>2</sup> (A1, A3, A5) and a mix of up to 20,438m<sup>2</sup> business and light industrial (B1 B2) – EIA not require

#### 4.0 Relevant Planning Policies

The relevant policies are:

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 – Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP10 - The scale and distribution of new employment development

Core Strategy Policy CP10A - The scale of new employment development by sub-area

Core Strategy Policy CP11 - Distribution of new employment development

Core Strategy Policy CP12 - Priorities for employment development

Core Strategy CP13 - Market towns regeneration  
 Core Strategy Policy CP14 - Retail and town centre development  
 Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
 Core Strategy Policy CP17 - Promoting high quality design  
 Development Policies DP1 - Protecting amenity  
 Development Policies DP3 - Site accessibility  
 Development Policies DP4 - Access for all  
 Development Policies DP8 - Development Limits  
 Development Policies DP9 - Development outside Development Limits  
 Development Policies DP10 - Form and character of settlements  
 Development Policies DP16 - Specific measures to assist the economy and employment  
 Development Policies DP17 - Retention of employment sites  
 Development Policies DP19 - Specific measures to assist market town regeneration  
 Development Policies DP23 - Major out of centre shopping and leisure proposals  
 Development Policies DP30 - Protecting the character and appearance of the countryside  
 Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation  
 Development Policies DP32 - General design  
 Development Policies DP33 - Landscaping  
 Development Policies DP34 - Sustainable energy

### **Hambleton emerging Local Plan**

Hambleton Emerging Local Plan

The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at

<https://www.hambleton.gov.uk/localplan/site/index.php>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF. The following draft policies are considered relevant on this basis.

S 1: Sustainable Development Principles 35

S 2: Strategic Priorities and Requirements 37

S 3: Spatial Distribution

EG 1: Meeting Hambleton's Employment Requirement

EG 2: Protection and Enhancement of Employment Land

EG 6: Commercial Buildings, Signs and Advertisements

E 1: Design

E 2: Amenity

E 3: The Natural Environment

CI 2: Transport and Accessibility

RM 3: Surface Water and Drainage Management

National Planning Policy Framework

5.0 Consultations

5.1 Parish Council – No Response received

- 5.2 Highway Authority – No objection subject to conditions
- 5.3 Environmental Health Officer – Recommends conditions
- 5.4 North Yorkshire Police Designing Out Crime Officer – recommends conditions
- 5.5 Yorkshire Water – No objection subject to acceptable outfall rates
- 5.6 Lead Local Flood Authority – Awaiting final comments
- 5.7 North Yorkshire County Council Heritage Service – No objection
- 5.8 Network Rail – Recommends condition, awaiting confirmation on drainage condition content
- 5.9 North Yorkshire Fire and Rescue – No Observations
- 5.10 MOD Safeguarding, RAF Leeming – recommends conditions relating to Bird Hazard Management Plan and assurance that the drainage attenuation basin will only fill during peak events and will revert back to a dry basin after any events.
- 5.11 North Yorkshire County Council Footpaths – Public right of way within the site will need a diversion order.
- 5.12 Public comments – Five letters of representation were received, one in support one neutral and three in objection. The following points were raised:
- Impact on litter
  - Increased noise from traffic
  - Light pollution
  - Impact of chain takeaways on an independent market town
  - Proposed uses are contrary to the LDF allocation
  - Allocation policy specifically excludes town centre uses (retail/food/drink)
  - Other high value non town centre uses could be developed to make the employment uses viable
  - Proposal is contrary to DP17 which safeguards employment land
  - Impact on employment land need in Emerging Local Plan
  - Will prejudice delivery of the new local neighbourhood centre on the east side of Darlington Road
  - Neighbourhood Centre requires the retail/food/drink uses to make the neighbourhood centre viable, approval of this scheme will draw away these uses making the neighbourhood centre unviable.
  - Disruptive uses should have been placed further back in the site
  - Views towards the Dales will be lost
  - Design unsympathetic to surroundings
  - Tree belt should be provided to screen the site
  - Dedicated cycleway and pelican crossings should be provided to make the site more accessible
  - Smell from drive through restaurants

- There is existing space available for the proposed uses and therefore this greenfield land should not be developed

## 6.0 Analysis

### 6.1 The main issues to consider are:

i) The Principle of development in this location; ii) Acceptability of proposed uses; iii) Design and impact on the character of the area; iv) Amenity; v) Drainage; vi) Highways Safety and ; vii) Biodiversity

The principle of development in this location

### 6.2 As outlined at 1.2 and 1.3 above the site is allocated for employment uses in both the current LDF and the Emerging Local Plan. Policy EG2 of the Emerging Local Plan identifies this site, amongst others, as a key employment location. In this case therefore the general principle of development in this location is considered acceptable.

Acceptability of proposed uses

### 6.3 LDF Policy DP17 state that: sites and premises used and/or allocated for employment purposes will be safeguarded for that use. Permission for any use that may have an adverse effect on an area's primary purpose for employment will not be granted, unless:

i. the supply and variety of available alternative employment land is sufficient to meet District and local requirements; or

ii. evidence can be provided that no suitable and viable alternative employment use can be found, or is likely to be found in the foreseeable future; or

iii. there would be substantial planning benefit in permitting an alternative use, for example in removing a use which creates residential amenity problems such as noise or odours; or

iv. economic benefits to the area would result by allowing redevelopment, for example by facilitating the retention of a business in the area through funding a new site or premises.

Where redevelopment of employment land is accepted, particular concern will be given towards ensuring the future viability of individual businesses (eg. tenants of an estate or premises) that might be displaced.

### 6.4 Policy EG2 states that a proposal for B class uses within a key employment location will be supported. A proposal for sui generis uses will only be supported if it is demonstrated that there is no suitable land or buildings available within a general employment location or site allocated for employment development. A proposal that involves the redevelopment or change of use of land or premises for non-employment uses will only be supported if it can be demonstrated that the proposed use is ancillary.

Applicants will need to demonstrate that the proposal will have a complementary benefit to the employment area. There would be no unacceptable amenity impact, no unacceptable impact on either the operation of the site as a key employment location, or the supply of employment land, both in quantitative and qualitative terms. A proposal for a sui generis use or a use that is ancillary to the operation of the whole location should be located towards the periphery of the key employment location, nearest to public transport routes (where available), in order to reduce the potential for conflict with traffic associated with existing business uses.

- 6.5 Whilst the principle of development at this site is acceptable the proposal does not match the uses for which the site was allocated. The applicants claim that the site has not come forward yet, despite marketing, due to “the cost of the infrastructure required to enable the development of the site for small/medium scale employment units and the relatively low values that can be achieved in this location, making such investments unviable” (supporting statement pg 22). It is argued that the gateway location of the site lends itself to “restaurant-take away/retail/petrol station/trade counter uses which will generate high values and therefore assist in funding the infrastructure needed to open up the wider site” (supporting statement pg 22).
- 6.6 The applicant has applied the sequential test by assessing alternative locations for the development. It is considered, however, that this approach does not in itself justify the deviation from the allocation, however, it does assist in the application of Policy EG2 outlined above. The sequential test looked at a number of sites within Northallerton including the Auction Mart and carpark, the Prison site, sites at Yafforth Road/Finkills Way and the local Centre site to the east of Darlington Road. All sites assessed were considered to be either unsuitable or unavailable. Having reviewed the supporting statement it is considered that there are no other sites which could have been included in the assessment and the sequential test is therefore acceptable.
- 6.7 In addition, the applicant is arguing that an element of high value enabling development is required to assist in delivering the allocation. Even if a more suitable site for the non B class uses were found to be available it would not necessarily facilitate the allocation.
- 6.8 A viability assessment was submitted with the application which details the build costs for the site. The Assessment claims that given the cost of infrastructure including the access road and balancing pond the site would be unviable unless a higher value can be achieved on a number of units. The proposal therefore is to site higher values units, drive throughs, trade counter and petrol station at the front of the site to balance the cost of infrastructure to the wider site.
- 6.9 Comments have been received from Eshton Castlevale Ltd who have a legal agreement with the landowner to deliver a new local centre on land east of Darlington Road which has planning permission for town centre uses and will function as a new local neighbourhood centre. The comments raise a number of concerns regarding the impact of the proposal on the delivery of the neighbourhood centre.

- 6.10 It is argued that the proposal is contrary to the allocation policy which specifically precludes town centre uses and policy DP17 which safeguards employment land. The relevant wording for NM5E is as follows: “high quality B1 uses will be required on this site and on the equivalent parts of Site NM5D, particularly at the prominent areas of the sites adjacent to the proposed roundabout junction, to form a suitable ‘gateway’ into Northallerton. B2, B8 and other suitable employment uses (excluding town centre uses) would also be acceptable within the site subject to location;” It is considered in this case that the wording does not specifically indicate that town centre uses would be unacceptable as the commentor states, rather that the allocation is for non town centre employment uses. This does not preclude the consideration of other uses where an appropriate justification has been provided.
- 6.11 In relation to DP17 part iii indicates that permission may be granted if there would be substantial planning benefit. The example given is the removal of a nuisance. In this case, however, the site has not come forward in the last plan period and the proposal offers a reasonable solution. The provision of the infrastructure to allow the employment land to come forward is considered a planning benefit in this case.
- 6.12 The commentor also indicates that approval for drive throughs at this site would prejudice the delivery of the neighbourhood centre site by drawing the food retailers away. It is claimed that these business are required to achieve the visibility of the site. No specific evidence has been provided to back this up. Indeed the identity of the end users has not officially been revealed by either party and therefore the Council cannot make any informed judgement on whether this proposal would prejudice the other. A decision must be made on the basis of what is before the Council and not on what may be presented in the future.
- 6.13 A similar objection has been raised on behalf of Simon Bailes, who claim that their site, which has permission for drive through units is sequentially preferable to the application site as it is better connected to the town centre. In this case the difference in accessibility is considered marginal. The commentor also questions the marketing carried out at the site and whether this was robust.

#### Design and impact on the character of the area

- 6.14 One of Hambleton’s strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is “To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character.”
- 6.15 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space.
- 6.16 The National Planning Policy Framework supports this approach and, at paragraph 134, states that planning permission should be refused for

development of poor design especially where it fails to reflect local design policies and government guidance on design<sup>52</sup>, taking into account any local design guidance and supplementary planning documents such as design guides and codes

- 6.17 Policy E1 of the Emerging Local Plan 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 help to create a strong sense of place.
- 6.18 The site is currently green-field with industrial development to the south and the partially complete North Northallerton housing development to the east. The site currently forms part of the transition between the edge of the settlement and the open countryside. To the east of Darlington Road the North Northallerton housing development has extended the built form of the settlement to the north. This site will bring development on the western side approximately 100m beyond the road fronting extent of the housing development. Further land to the north east of this new settlement edge has approval for further housing. Given the application site's position in relation to the strategic expansion of Northallerton and its status as both a current allocation under the LDF and draft allocation in the Emerging Local Plan it is considered that development of the site will not have an undue impact on the character of the area.
- 6.19 Part of the application is in outline with access only considered. The appearance, scale, layout and landscaping of this part of the development will be considered at reserved matters stage.
- 6.20 The application also includes a section seeking full permission. This section is located at the south east corner. Detailed design drawings have been submitted for Unit 1 which is a drive-through unit and units 2 and 3 which are trade units. Unit 2 is shown as divisible into 2 separate spaces and unit 3 into 4 spaces. The design is modern in style featuring timber and Kingspan cladding, blue engineering brick and aluminium framed glazing.
- 6.21 As the site is seen as a gateway site into Northallerton it has been designed with visual permeability as a priority. The proposed stone entrance originally continued around the eastern boundary of the site. This was amended on request and it is now proposed to keep the existing hedgerow with the stone wall reduced to just the entrance.
- 6.22 The design and access statement identifies that other commercial and industrial properties in the area feature red brick and various cladding materials. This has not been carried forward into the proposed design, however, it appears that Unit 1 at least is a corporate design for a well known restaurant chain. The remaining buildings that seek full consent take their cue from Unit 1 and feature timber and industrial type cladding. Overall, the design is modern and will appear as good quality design in the context of the wider industrial area.

Amenity

- 6.23 LDF Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 6.24 Emerging 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.
- 6.25 The Council's Environmental Health Officer was consulted and has recommended a number of conditions to secure the amenity of nearby residents. The response details that in recent years the number of complaints regarding industrial uses in the district has increased. The Environmental Health Officer has indicated that "historic estates tend to have no hours use restrictions and many larger operators now work 24 hours. Over the years the areas surrounding these sites have experienced a general increase in noise levels which can lead to a deterioration in amenity both due to increased activities during the night and associated road traffic movements. This becomes increasingly difficult when there are many operators and many sources of noise and odour".
- 6.26 As some of the end uses are currently unknown the Environmental Health Officer has recommended a number of conditions including submission of additional information at later stages of the development which will allow more detailed assessment at the appropriate time.

#### Drainage

- 6.27 LDF Policy DP32 indicates that sustainable drainage systems (SuDS) should be included where possible.
- 6.28 Emerging Local Plan Policy RM 3 relates to surface water and drainage management. Of relevance to this case is the requirement that SuDS be incorporated in the drainage design.
- 6.29 The application site is located in Flood Zone 1. The emerging Local Plan identifies that the south western portion of the site is vulnerable to surface water flooding. Due to the size of the site a Flood Risk and Drainage strategy were submitted with the application.
- 6.30 The drainage strategy indicates that the site will be developed with separate systems for foul and surface water drainage. Ground condition testing has been carried out and it was found that the site is not suitable for soakaway systems.
- 6.31 The drainage assessment indicates that discharge to a watercourse is not viable as this would require the system to cross third party land. In the interest of sustainable drainage, Yorkshire Water has advised that the feasibility of crossing third party land be investigated further and have recommended that this be secured by condition.



- 6.32 Subject to the above condition it is proposed that surface water be discharged to the public system located in Standard Way with a maximum discharge rate of 5l/second. This will require a positive attenuation system through a detention basin, pumping station and via a rising main to the Yorkshire Water surface water sewer.
- 6.33 Similarly, foul water will discharge to the Yorkshire Water foul sewer at Standard Way. It is proposed that the drainage system will be built to adoptable standards.

#### Highways Safety

- 6.34 LDF Policy DP3 supports the provision of sustainable forms of transport to access the site and within the development. Provision must be made for (where appropriate), footpaths, cycleways, cycle storage, bus stops, travel plans and parking.
- 6.35 Draft Policy CI 2 of the Emerging Local Plan indicates that a proposal will be supported where it is demonstrated that the development can be satisfactorily accommodated within the network, can be well integrated with footpath, cycling and public transport networks, provides proportionate contributions towards improvements where necessary, maximises opportunities for walking, cycling and public transport, provides safe access for both users and emergency vehicles and adequate parking.
- 6.36 North Yorkshire County Council Highways Authority has been consulted and the following response was returned: Access to the site is proposed to be taken from the recently constructed roundabout on Darlington Road. The roundabout and access road are of a suitable width and construction to accommodate the larger goods vehicles that the development would be expected to generate. A check on the capacity of the roundabout has demonstrated it would continue to operate within capacity with the new traffic generated by the proposals and therefore the vehicular access proposals are considered acceptable.
- 6.37 The internal road and site layout shown for phase 1A would allow service vehicles to the Trade Units to load and unload clear of the highway and leave the site in a forward gear. The level of parking provision proposed for phase 1A also meets the minimum requirements expected. An indicative road layout for the later phases seeking outline permission has been provided and in principle this is considered acceptable although the highway authority would expect a turning head facility to be provided that can be used by goods vehicles to form part of the road layout.
- 6.38 The impact of the new traffic expected to be generated by the proposals has been considered with a trip generation and distribution exercise undertaken by the applicant. It is accepted that a number of uses proposed for the site, such as the petrol filling station and drive through restaurants will rely to some extent on existing traffic that already passes the site. Given the site is located on a major A road, this could be a significant proportion of the traffic. There is also likely to be some redistribution of existing traffic that is already present on the wider local road network that will divert to this development. However,

there will also be new trips that are likely to impact on junctions in Northallerton that can already suffer from congestion. Traffic modelling work recently undertaken has in particular highlighted issues at High Street and Friarage Street with options to improve capacity now being considered. The proposed development is likely to result in a noticeable impact at this location and therefore a contribution towards measures to improve capacity is sought. It is also important to ensure that facilities and infrastructure that can provide alternative means of transport to the site are provided. A connecting cycle path/footpath that joins to Standard Way and a contribution to provide/enhance bus services to this location are also sought as part of the proposals.

- 6.39 North Yorkshire County Council Highways raised no objection to the proposals and recommend conditions relating to detailed plans, construction requirements, closing of the farm access, off site works, travel plan delivery and a construction management plan. It is considered that the proposed development will not result in a harmful impact on road safety and the proposed development is in compliance with policy DP3 and DP4.

#### Biodiversity

- 6.40 Planning Practice Guidance on the natural environment indicates that section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its 25 Year Environment Plan.
- 6.41 Policy DP31 of the LDF states that 'Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation [...] Support will be given [...] to the enhancement and increase in number of sites and habitats of nature conservation value'.
- 6.42 Policy E3 of the Emerging Local Plan requires that harm to a feature of biodiversity interest, will only be supported where harm is unavoidable, then appropriate mitigation is provided to lessen the impact of any unavoidable harm, and as a last resort compensation is delivered to offset any residual damage to biodiversity. Policy E3 also requires the use of a biodiversity offsetting metric to demonstrate that a proposal will deliver a net gain for biodiversity. It must also be demonstrated that the need for the proposal outweighs the value of any features that would be lost.
- 6.43 A Preliminary Ecological Assessment was submitted with the application. As part of the assessment a desktop study was undertaken on the 19/11/2019 in order to obtain any relevant ecological records that may be present within a 2km radius of the site, including protected and notable species records and nature conservation designations. The proposed development will have no impact on statutorily and non-statutorily designated conservation sites. This is due to no conservation sites in the wider landscape being in or within 2km of the influencing area of the proposed development.

- 6.44 A phase 1 habitat survey was also undertaken on site. The site was found to have potential of supporting bat roosting sites and emergence surveys were recommended to establish the presence or absence of bat roosts. Emergence and re-entry surveys were carried out in August and September of 2020. The surveys found a number of bats commuting/foraging at the site. In addition, 2 instances of bats (brown long-eared and common pipistrelle) emerging from the barn to the south of the dwelling were recorded.
- 6.45 As bats have been confirmed to be roosting at the site a Bat Mitigation Licence must be applied for from Natural England, and a mitigation plan devised so development causes as little impact on local bat populations as possible.
- 6.46 Paragraph 180 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- 6.47 In this case it is considered that there are no alternative sites available to accommodate this development, however, mitigation measures can be secured to reduce the impact during construction and later use of the site. It is recommended that a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP) including a suitable lighting scheme be provided prior to the commencement of development.
- 6.48 The Preliminary Ecological Assessment also found that the buildings, scattered trees and hedgerow habitats on site provide excellent nesting opportunities for breeding bird species. Several vacant Swallow nests were noted within the storage building and outbuilding. The scattered broadleaf trees on site offer potential nesting areas for breeding birds. The site is likely to support breeding birds, including those listed as Local Hambleton Biodiversity Action Plan farmland bird species. It was also found that the site is unlikely to support nesting and breeding hedgehogs, however the grassland habitat offers some foraging opportunities for hedgehogs.
- 6.49 It is recommended that Biodiversity Enhancement Plan be secured by condition which includes:
- Quantities and locations of faunal boxes for bats, birds, hedgehogs and insects.
  - Native shrub/tree/grass/hedgerow planting.
  - Gaps in fencing to allow movement for hedgehogs and other small mammals

#### Planning Balance

- 6.50 The proposal does not strictly comply with the requirements of the LDF or Emerging Local Plan allocations. An argument has been put forward, however, which reasonably explains the justification for the town centre type units in this location. There is some merit to the argument that the

neighbourhood centre could be impacted by the proposal, however, it is considered that based on the available information this would not form a robust reason for refusal at this stage. Given that the allocation has not come forward in the last plan period it is considered that the proposal to offset the cost of infrastructure through the provision of high value units is acceptable.

## 7.0 Recommendation

7.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:

1. Part 1) of the development hereby permitted (Full planning permission is sought for the demolition of the existing farmhouse and buildings and construction of a commercial development comprising of 21,000sq ft (1951 sq.m) of trade counter space (B8), a 3,777sq ft (351 sq.m) drive thru (E b) and sui generis and associated infrastructure comprising of carparking, landscaping, drainage and construction of an access road (Phase A1) from the Darlington Road to cross enable Phase 1B and 2) shall be begun within three years of the date of this permission.
2. Application for the approval of all the reserved matters in respect of Part 2) of the development hereby approved (Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up to 15,000sq ft (1395 sq.m) E g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2) shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Three years from the date of this permission ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
3. No development in respect of Part 2) (Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up to 15,000sq ft (1395 sq.m) E g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2) shall take place in any Phase without the prior written approval of the Local Planning Authority of all details of the following reserved matters for that Phase: (i) appearance; (ii) landscaping; (iii) layout; and(iv) scale. Thereafter the development of that Phase shall not be carried out otherwise than in strict accordance with the approved details.
4. Part 1) of the development hereby permitted shall not be undertaken other than in complete accordance with the drawing(s) numbered: Proposed Site Layout 15475-101 Rev A received on 20.07.2021 Proposed Unit 1&2 GA 15475-102 Rev A received on 20.07.2021 Proposed Unit 1 Elevations 15475-104 Rev A received on 20.07.2021 Proposed Site Elevations/Sections 15475-107 Rev A received on 20.07.2021 Proposed Boundaries Plan 15475-112 Rev A received on 20.07.2021 Landscape Plan 15475-VL L01 Rev D received on 20.07.2021 Landscape Masterplan 15475-VL L02 Rev D received on 20.07.2021

5. The Reserved Matters application shall be submitted in substantial accordance with the Proposed Phasing Plan 15475-111 Rev A.
6. 6. Part 1) of the development shall not be occupied until the access road and related services have been installed to a standard adoptable by statutory undertakers to facilitate Phase 2 of the development as shown on drawing titled Proposed Phasing Plan 15475-111 Rev A and received by Hambleton District Council on 26.11.2020.
7. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
8. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation. The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.
9. With 6 months of development commencing on phase 2 the existing farm access onto Darlington Road has been permanently closed off in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
10. There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of phases 1B and 2 on land south east of Moor Close Darlington Road until full details of the following have been submitted to and approved in writing by the Local Planning Authority: o vehicular, cycle, and pedestrian accesses; o vehicular and cycle parking; o vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and; o loading and unloading arrangements. No part of phases 1B and 2 of the development must be brought into use until the vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
11. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Phase 1A have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
12. The development must be carried out and operated in accordance with the approved framework Travel Plan. Those parts of the Travel Plan that are

identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

13. No development for any phase of the development must commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
  1. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
  2. the parking of contractors' site operatives and visitor's vehicles;
  3. areas for storage of plant and materials used in constructing the development clear of the highway;
  4. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
  5. protection of carriageway and footway users at all times during demolition and construction;
  6. details of site working hours;
  7. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
  8. details of external lighting equipment;
  9. details of ditches to be piped during the construction phases;
  10. a detailed method statement and programme for the building works;and
  11. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
14. The following schemes of off-site highway mitigation measures must be completed as indicated below:
  1. Provision of 2.5m wide shared cycleway/footway from the junction of Standard Way/Darlington Road that connects with the footway/cycleway at the roundabout of the A167/North Moor Road. To be provided prior to first occupation of the site.
  2. Provision of a bus stop and shelter with raised kerbs on the northbound lane of the A167 Darlington Road prior to the roundabout Darlington Road/North Moor Road. To be provided prior to first occupation of the site.For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority. An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

15. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to: i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority
16. In respect of Part 1) of the development the hours of use for the restaurant, drive through / takeaway restaurant are restricted to between 07:00 - 22:00.
17. In respect of Part 1) of the development hereby approved delivery of raw ingredients / materials are restricted to between the hours of 07:00 -20:00.
18. In respect of Part 1) of the development hereby approved all emissions to air resulting from any processes, plant, or activity likely to be detected at odour sensitive receptors shall be treated and discharged at a height, position and in a manner to the satisfaction of the Local Planning Authority. Details of these emission(s), odour impact assessments and the method(s) of odour abatement, treatment of the discharge shall be submitted and agreed in writing with the Local Planning Authority prior to the commencement of emissions. (Siting the plant on a façade facing away from the receptor has been recommended as mitigation). The scheme shall also include details of noise levels generated and any noise attenuation structures to be incorporated.
19. In respect of Part 1) of the development hereby approved a construction management scheme shall be submitted to and approved in writing by the LPA before ground works commence. The scheme shall detail what steps shall be taken to mitigate emission of noise, lighting, dust, and vibration from the site impacting on existing noise sensitive premises\*. This is to include details the siting of:
- materials and machinery, o staff welfare facilities o office location, staff/contractor parking,
  - construction site traffic movements including deliveries,
  - siting of any lighting provision, type, and controls o hours of hours including delivery times.
  - how dust emissions will be reduced, monitored, and managed.
  - Details of any piling to take place including duration and equipment type to be used.
  - How machinery, equipment and earth works will comply with the British Standards BS 5228- 1:2009 Code of practice for noise and vibration control on construction and open sites, Part 1 : Noise
  - In circumstances where vibration is a potential source of impact it is anticipated that an appropriate vibration / screening survey or prediction report be proposed, and details submitted.
- Details of the community engagement arrangements will be in place throughout ground preparation and construction phases.
- \*Noise sensitive premises are taken to be places where building occupants may be resting, sleeping, or studying, or spending recreational time.
20. In respect of Part 2) of the development all emissions to air resulting from any processes, plant, or activity likely to be detected at odour sensitive receptors shall be treated and discharged at a height, position and in a

manner to the satisfaction of the Local Planning Authority. Details of these emission(s), odour impact assessments and the method(s) of odour abatement, treatment of the discharge shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of emissions.

21. In respect of Part 2) of the development HGV and / or other associated deliveries to the development area shall be restricted to between the hours of 08:00- 18:00 hrs daily.
22. In respect of Part 2) of the development no external and / or externally terminating fixed plant extract ventilation, plant or machinery shall be placed on the roofs of the units. Prior to the installation of any extract ventilation system details of the position and termination height shall be submitted to and approved in writing by the Local Planning Authority.
23. In respect of Part 2) of the development no HGV / Refrigerated vehicles shall be parked overnight on the highway within the development area.
24. In respect of both Part 1) and Part 2) of the development: Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' the buildings shall be retained for the uses hereby approved and detailed in the description and no changes of use shall occur without the express consent of the Local Planning Authority through an application made under Part III of the Town and Country Planning Act 1990.
25. In respect of Part 1) and Part 2) of the development details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting. Thereafter the artificial lighting shall be installed, operated, and maintained in accordance with the approved scheme. Changes to any element of the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the changes taking place.
26. In respect of Part 2) of the development for unit occupations where noise activities produced both internally or externally are likely to be heard by noise sensitive receptors, including other business users, further information shall be submitted to and approved in writing by the Local Planning Authority in the form of an acoustic assessment detailing the associated noise level created by activities and / or machinery (including low frequency noise where relevant), impact on sensitive receptors, proposed mitigation, and the associated reduction in noise levels. The scheme may be requested in the format of a BS4142 assessment where necessary. Any mitigation measures approved as part of the scheme shall be installed prior to the noise activities taking place and shall thereafter be retained.
27. In respect of Part 2) of the development a construction management scheme shall be submitted to and agreed in writing with the LPA before ground works commence. The scheme shall detail what steps shall be taken to mitigate emission of noise, lighting, dust, and vibration from the



site impacting on existing noise sensitive premises\*. This is to include details the siting of:

- materials and machinery,
- staff welfare facilities
- office location, staff/contractor parking,
- construction site traffic movements including deliveries,
- siting of any lighting provision, type, and controls
- how dust emissions will be reduced, monitored, and managed.
- Details of any piling to take place including duration and equipment type to be used.
- How machinery, equipment and earth works will comply with the British Standards BS 5228-1:2009 Code of practice for noise and vibration control on construction and open sites, Part 1 : Noise
- In circumstances where vibration is a potential source of impact it is anticipated that an appropriate vibration / screening survey or prediction report be proposed, and details submitted.
- Details of the community engagement arrangements will be in place throughout ground preparation and construction phases.

\*Noise sensitive premises are taken to be places where building occupants may be resting, sleeping, or studying, or spending recreational time.

28. No development shall take place until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Bird Hazard Management Plan shall include design measures to minimise any increase in the numbers of hazardous species (primarily large or flocking birds) as a result of the development proposed, in particular provisions to prevent gulls from breeding (using appropriate licensed means) on site should be provided. The development shall be carried out strictly in accordance with the details set out in the approved Bird Hazard Management Plan in perpetuity or until RAF Leeming is no longer operational.
29. Prior to commencement of development, hereby approved, a scheme detailing what crime prevention measures are to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take into account the comments made by the North Yorkshire Police Designing Out Crime Officers report dated 11 January 2021 and should provide rationale and mitigation in relation to any suggestions made that are not to be incorporated. Thereafter the approved scheme shall be implemented and retained for the life of the development.
30. No development shall commence until a Construction Ecological Management Plan ("CEMP") and a Landscape and Ecological Management Plan (LEMP) have been submitted for the written approval of the local planning authority for each phase of the development. The approved plans must be available onsite for consultation by site operatives throughout the course of constructions works for each phase. Once approved development of each phase shall be undertaken in accordance with approved CEMP and LEMP
31. No development shall commence until a Biodiversity Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority for each phase of the development. The plan shall include but not be limited to the following: -

- Quantities and locations of faunal boxes for bats, birds, hedgehogs and insects.
- Native shrub/tree/grass/hedgerow planting.
- Gaps in fencing to allow movement for hedgehogs and other small mammals Once approved development of each phase shall be undertaken in accordance with approved plan.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.
4. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan.
5. To ensure that the development accords with the justification provided to support the principle of the proposed uses.
6. In order to ensure that the employment land is made available for development.
7. To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.
8. To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.
9. In the interests of highway safety and the amenity of the area.
10. To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.
11. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
12. To establish measures to encourage more sustainable non-car modes of transport.
13. In the interest of public safety and amenity.
14. To ensure that the design is appropriate in the interests of the safety and convenience of highway users.
15. To ensure that no surface water discharges take place until proper provision has been made for its disposal.
16. In the interest of local amenity.
17. In the interest of local amenity.
18. In the interest of local amenity.
19. In the interest of local amenity.
20. In the interest of local amenity.
21. In the interest of local amenity.
22. In the interest of local amenity.
23. In the interest of local amenity.
24. Due to amenity concerns the development area is not suitable for residential accommodation. In addition due to the viability justifications

presented during the application stage any deviation from that approved would require further consideration.

25. In the interest of local amenity.
26. In the interest of local amenity.
27. In the interest of local amenity.
28. To minimise the potential of the works approved to provide a habitat desirable to hazardous large and/or flocking birds which have the potential to pose a considerable hazard to aviation safety which is exacerbated by the proximity of RAF Leeming.
29. To satisfy Paragraphs 92 and 130 of the National Planning Policy Framework February 2021.
30. In the interest of biodiversity.
31. In the interest of biodiversity.

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**Parish: Shipton**  
Ward: Easingwold  
**9**

Panel date: 21 October 2021  
Officer dealing: Andrew Cotton  
Target date: 12 August 2021

**21/01544/FUL**

**Revised application for the construction of 2no semi-detached dwellings  
At: Land to the rear of Redworth Bungalow, Main Street, Shipton by  
Beningbrough  
For: Mr C Reynard**

**This application is presented to Planning Panel as the proposed  
development is a departure from the Development Plan**

- 1.0 Site, context and proposal
- 1.1 The site lies just beyond but adjacent to the Development Limits for Shipton-by-Beningbrough.
- 1.2 Redworth Bungalow fronts Main Street to the east of the application site. To the north east of the site lies Redworth House which comprises offices, directly to the north lies some disused single storey outbuildings with low eaves height and dual pitched roof form. To the rear of Redworth House (further north of the application site beyond the disused outbuildings) lies a parking area within a courtyard. To the south lie two residential properties and to the west a large residential bungalow.
- 1.3 The site is relatively enclosed by outbuildings in adjacent plots to the north and south with the common boundary to the east shared with Redworth Bungalow's rear garden area and to the west with the front garden of Field View bungalow, which is separated by a large leylandii evergreen hedge approximately 3 metres high which is contained on the application land.
- 1.4 The site is located relatively centrally within the village of Shipton-by-Beningbrough to the east side of the Main Street (the A19). The village of Shipton is defined as a Secondary Village within the settlement hierarchy, making it a sustainable location. Amenities and facilities in the village are not to include:
  - The Anglican Church,
  - Primary School,
  - St Catherine's Care Home,
  - Dawnay Arms Public House,
  - Community Centre
  - Bowling Green,
  - Children's Play Area,
  - Sports Field,
  - Bus links to York, Easingwold and outlying villages.

- 1.5 Vehicular access to the site is via the existing vehicular access that serves Redworth Bungalow, Redworth House, Field View Bungalow the two cottages 3 and 4 Field View and the surrounding commercial units.
- 1.6 The application seeks full planning permission for the construction of two dwellings (semi-detached pair). The semi-detached pair would be 1.5 stories in height (6m to the ridge and 4m to the eaves).
- 1.7 This application is a resubmission of a previously withdrawn proposal for a larger development of 3 mews dwellings.
- 2.0 Relevant planning and enforcement history
- 2.1 88/1666/OUT - Outline Application for Residential Development - Permitted
- 2.2 93/0905/OUT - Outline Application for Residential Development - Refused
- 2.3 95/51261/O- Outline application for a dwelling as amended– Refused
- 2.4 01/000978/FUL - Alterations to existing disused agricultural building for use as Class B1 offices - Permitted
- 2.5 20/02177/FUL- Construction of 3no dwellings - Withdrawn
- 3.0 Relevant planning policies
- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990. The relevant policies are:
- Core Strategy Policy CP1 - Sustainable development  
 Core Strategy Policy CP2 - Access  
 Core Strategy Policy CP4 - Settlement hierarchy  
 Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
 Core Strategy Policy CP17 - Promoting high quality design  
 Core Strategy Policy CP21 - Safe response to natural and other forces  
 Development Policies DP1 - Protecting amenity  
 Development Policies DP4 - Access for all  
 Development Policies DP10 - Form and character of settlements  
 Development Policies DP30 - Protecting the character and appearance of the countryside  
 Development Policies DP32 - General design  
 Interim Guidance Note
- Hambleton Emerging Local Plan  
 The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>.

The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF. National Planning Policy Framework

#### 4.0 Consultations

##### 4.1 Parish Council – Comments received raising the following concerns:

- While the application has changed in terms of the number of dwellings and the height of the dwellings proposed, the issues regarding traffic are still relevant. The comments made previously by the PC therefore still stand with regards to the application:
- From the plans, it shows that the car park area in front of the houses will require cars leaving the property to join the highway to navigate a blind spot to first join a shared drive. There are several businesses that use this drive, often receiving deliveries from HGV's. The additional cars will add to the already busy traffic on the yard and add a new danger by the lack of visibility due to the building blocking the view to the left when joining the shared drive.
- Other points raised at the meeting were the impact on safety additional cars leaving and entering the highway would have, particularly given that there are already other developments on Main Street that would add to traffic.

##### 4.2 Highway Authority – No objection subject to conditions.

##### 4.3 Environmental Health (land contamination) – No objection subject to a condition.

##### 4.4 Public comments – One objection received raising the following points:

- Planning history shows refusal in 1995 for two reasons and withdrawal in 2020,
- Site is small and all surrounding buildings are single storey,
- Overlooking/loss of privacy for neighbours,
- Back land development of this scale is out of character for the village,
- Site is outside development limits and as such is contrary to policy,
- Private drive is inadequate to serve this proposal,
- Highway safety concerns with the visibility splays and width of the access onto the A19.

#### 5.0 Analysis

##### 5.1 The main issues to consider are: i) the principle of development in this location; ii) impact on the character and appearance of the area; iii) design; iv) amenity; v) highways Safety

###### Principle

##### 5.2 The site falls outside of Development Limits of Shipton-by-Beningbrough, which is defined in Policy CP4 of the Core Strategy as a Secondary Village. Policy DP9 states that development will only be granted for development "in

exceptional circumstances". The applicant does not claim any of the exceptional circumstances identified in Policy CP4 and, as such, the proposal would be a departure from the development plan. However, it is also necessary to consider more recent national policy in the form of the NPPF.

5.3 The NPPF states that "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby".

5.4 In order to ensure consistency with the NPPF the Council adopted Interim Planning Guidance (IPG) which allows more flexibility for housing development outside of development limits where the following criteria are met:

1. Development should be located where it will support local services including services in a village nearby.
2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies.

5.5 Shipton-by-Beningbrough is still defined as a Secondary Village and therefore a sustainable settlement; within the IPG small scale development adjacent to the main built form of the settlement "will be supported where it results in incremental and organic growth". To satisfy criterion 1 of the IPG the proposed development must provide support to local services including services in a village nearby. The site lies roughly within the centre of Shipton-by-Beningbrough which has numerous facilities as set out in section 1 of this report. Criterion 1 would be satisfied.

Impact on the character and appearance of the area

5.6 It is important to consider the likely impact of the proposed development with particular regard to criteria 2, 3 and 4 of the IPG. In this case the site is not rural in character although in proximity to the open countryside, which lies beyond Field View Bungalow to the north. The following detailed advice within the IPG is considered to be relevant:

"Proposals will be assessed for their impact on the form and character of a settlement. Consideration should be given to the built form of a settlement, its



historical evolution and its logical future growth and how the proposal relates to this."

"Any detrimental impact on the character, appearance and environmental quality of the surrounding area should be avoided and development should not compromise the open and rural character of the countryside."

- 5.7 The proposed dwellings would be on land that is currently surrounded by built form on all sides with residential uses on three sides. The site therefore has more in common with the village than the rural landscape beyond and as such it is considered that the development proposed, and the limited loss of openness, would appropriately respect the character of the countryside.
- 5.8 The form of the village itself is not linear, with numerous instances of residential properties extending back from Main Street including a recently approved application to the opposite side of Main Street (at the old Methodist Chapel, 20/00933/FUL). The addition of a dwelling to the rear of road fronting properties is not considered therefore to be out of character when considered with the existing character of the site as detailed above.
- 5.9 Previous planning applications were refused permission in the 1990's for the construction of dwellings on this site due to the impact of back-land development on the character and appearance of the village and to the amenity of neighbouring residents. It has been established above that the site is part of the village in terms of character and form and it is understood from the agent that the site has been used from time to time as a storage area for the office uses to the north east. An existing access serves the site and is not therefore a contrived form of development that would alter the character of the village. The built form of Shipton-by-Beningbrough already extends further into the countryside than the application site and as such it is considered that the development proposed, without the loss of rural landscape as it is within the existing built form, would appropriately respect the general built form of the village. There would be no harmful impact to the natural, built and historic environment.
- 5.10 Criteria 2, 3 and 4 are considered satisfied.

#### Design

- 5.11 One of Hambleton's strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is "To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character."
- 5.12 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space.
- 5.13 The National Planning Policy Framework supports this approach and states that planning permission should be refused for development of poor design

that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 5.14 The semi-detached dwellings proposed are 1.5 stories in height (6m to the ridge and 4m to the eaves) orientated north to south with single storey elements to the rear. The design appears domestic but alludes to a rural outbuilding which sits well with the surrounding outbuildings ensuring the new buildings would harmonise with their setting. The scale of the proposal is reduced from the previously withdrawn scheme both in terms of number of units proposed and in height and mass. The reduced scale of the proposal is now considered to relate well to the scale of surrounding buildings, including both residential and commercial properties.
- 5.15 Both dwellings would be two bedroomed and would meet nationally described space standards. Adequate private amenity space is provided to the rear of each property. The agent describes the forecourt area to the front of the properties as reminiscent of a fold yard which would be in keeping both with the setting and the character of the properties proposed.
- 5.16 Each dwelling would be provided with two parking space and the forecourt would be landscaped to soften the appearance of the sit, helping the new development settle into its surroundings.

5.17 Considering the above the design and form is therefore acceptable.

#### Amenity

- 5.18 LDF Policy DP1 requires development to adequately protect amenity, particularly with regard to privacy, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.19 There is concern from the neighbouring residents that the scale of the dwellings would result in overlooking and loss of privacy. Overlooking could be assumed from the front and rear bedroom windows, however, the intervening distance, structures and angle of views are such that the proposal would adequately protect the amenity of neighbours..
- 5.20 The proposed block plan demonstrates that the following interface distances can be achieved. From the front elevation of the proposed dwellings a distance of approximately 14.5m to the common boundary with Redworth Bungalow and a distance of approximately 28.4m to the rear elevation of Redworth Bungalow is maintained. These distances are considered adequate to protect the privacy and amenity of both existing neighbouring residents and future occupiers.
- 5.21 At its closest point the rear elevation of the northern most unit would maintain a distance of approximately 7m to the approximately 3m leylandii hedge which is to be retained. Approximately 13.5m is maintained to the closest elevation of Field View bungalow. Given these interface distances, the height of the proposed properties, the orientation of neighbouring properties adjacent and the presence of the approximately 3m evergreen hedge the proposed distances are considered acceptable in this instance.

- 5.22 There are no windows proposed at first floor level in the side elevations of either property. Any windows at ground floor level in the side elevations as proposed would be effectively screened by existing boundary treatments so as to result in no loss of amenity to neighbouring residents.

#### Highways safety

- 5.23 The Highway Authority has no objections regarding the proposed development and the use of the existing access from Main Street. It is considered that the proposed development would not adversely impact highway safety and conditions are recommended.
- 5.24 The objection received and comments from the parish council raised highways safety concerns and comment regarding a 1995 refusal where one of the reasons were highways safety, when the A19 was a trunk road. NYCC highways engineers have commented that in 1995 the design standard used at the time for highway visibility was the "Design Manual for Roads and Bridges" (DMRB). In 2007 the DMRB was replaced by "Manual for Streets" for non-trunk roads and this document, amongst other things, set lower requirements for visibility splays by which time the A19 was no longer a trunk road. In 2010 "Manual for Streets 2" was published which expanded on the guidance of the original publication to clarify its application to "busier streets and non-trunk roads ...regardless of traffic volumes". This application has been assessed against the guidance of the relevant updated guidance and it is considered that the proposal is satisfactory and there are no highway grounds to support a recommendation of refusal of this application.

#### Planning balance

- 5.25 The proposal would create two new homes in a sustainable location, without causing harm to the appearance of the settlement, to highway safety, and residential amenity. The proposal is considered to comply with the policies of the Local Development Framework and the interim Policy Guidance. There are no other material considerations would preclude a grant of planning permission. Overall, the scheme is found to be acceptable.

#### 6.0 Recommendation

- 6.1 That permission is **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.

2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) titled 'proposal drawings' WG917 01D dated August 2020 as received by Hambleton District Council on 17.06.2021 unless otherwise approved in writing by the Local Planning Authority.

3. No above ground construction work shall be undertaken until details of the materials to be used in the construction of the external surfaces of the

development have been submitted in writing to the Local Planning Authority for approval and samples have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.

4. No dwelling must be occupied until the related parking facilities have been constructed in accordance with the approved drawing reference WG917 01D. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

5. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited to, arrangements for the following in respect of each phase of the works:

- wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- the parking of contractors' vehicles;
- areas for storage of plant and materials used in constructing the development clear of the highway;
- contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

6. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

7. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

8. No above ground development shall commence until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, and all boundary fencing/screening details have been submitted to and approved by the Local Planning Authority. The landscaping scheme shall include a mix of native species, with known wildlife value. The landscaping scheme shall be implemented not commence before the end of the first planting and seeding seasons following the approval of the landscaping scheme. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) .
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.
5. In the interest of public safety and amenity.
6. In the interest of satisfactory and sustainable drainage.
7. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
8. To ensure adequate screening and amenity for future occupiers and safeguard the visual amenity of area.

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**Parish: Stokesley**

Ward: Stokesley

**10**

Committee Date : 21 October 2021

Officer dealing : Mrs A Sunley

Target Date: 27 September 2021

Date of extension of time (if agreed): 23 October 2021

**21/01901/FUL**

**Erection of two detached garages as amended on 19 August 2021.**

**At: Cringle Moor Thirsk Road Stokesley Middlesbrough**

**For: Mr & Mrs C Atha.**

**The application is brought to Planning Committee owing to the degree of objection to the proposals.**

1.0 Site Context and Proposal

- 1.1 The site is occupied by a large two storey dwelling and a range of associated outbuildings. The property sits in a very large plot within the Conservation Area of Stokesley, which is also covered by an Article 4 Direction.
- 1.2 Access to the property is via a driveway from Thirsk Road; a secondary access exits from West End, beneath and between existing terraced dwellings and through a large timber door within a brick archway.
- 1.3 Amended plans were received on 19 August 2021 to include the replacement of a wooden door to the rear elevation of the curtilage with a wrought iron gate.
- 1.4 Due to the orientation of the dwelling and the existing outbuildings the only location available for the proposed garages is to the front amenity area of the property. Had the site been considered to be the rear of the dwelling then the proposed garage development due to its size and form could have been constructed under permitted development rights.

2.0 Relevant Planning History

- 2.1 17/00360/FUL: Conversion of existing outbuildings to form 2 dwellings and an annexe in connection with existing main dwelling as amended by plan received by Hambleton District Council on 20 June 2017 - Permitted
- 2.2 19/01091/FUL: Construction of a detached dwellinghouse and garage - Refused

3.0 Relevant Planning Policies

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Development Policies DP1 - Protecting amenity

Development Policies DP32 - General design  
Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP28 - Conservation  
Supplementary Planning Document - Domestic Extensions - Adopted 22 December 2009  
Hambleton Emerging Local Plan  
The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>.  
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.  
National Planning Policy Framework

#### 4.0 Consultations

4.1 Stokesley Town Council - Response date 2 and 13 September 2021; Following receipt of the Heritage Statement Stokesley Town Council submitted an amended response. A summary of their objections are set out below.

- Whilst the house and outbuildings are in Flood Zone 1 the site of the proposed garages appear, subject to confirmation, to be in Flood Zone 3. The two blocks of garages and associated concrete aprons would provide a non-permeable area of approximately 180 m<sup>2</sup>, excluding the permeable hardstanding around both buildings. This raises two questions, would a single soakaway be a suitable drainage solution, and given the location in Flood Zone 3 is there not a requirement to provide a full Flood Risk Assessment?
- The extent of the permeable hard standing adjacent to Garage Block B should be clearly specified, the plan currently provided lacks the necessary detail.
- The Heritage Statement notes that the proposal has a minimum impact on the existing main house and outbuildings. Conversely, the proposal has arguably the maximum impact on the current open space at the southern end of the curtilage and on the neighbouring properties. The two buildings, for a total of 7 vehicles plus a workshop area, if approved, would become a dominant feature of the southern part of the curtilage of Cringle Moor.
- The proposed construction materials for the garages lack any empathy with the existing buildings on site, or with other structures within the Stokesley Conservation Area. This applies not only to the timber frame, timber cladding and the extensive use of steel sectional doors, but particularly to the use of profiled steel sheeting as the roofing material. In mitigation, the garages are not visible from the public domain, but they are visible from the neighbouring properties, e.g., on Malvern Drive and The Beeches, Edgar House and Beech House.
- If the application is approved, then the provision of a detailed tree retention plan and a new tree planting scheme are considered appropriate conditions.
- Turning to the additional proposal to replace the gate, Stokesley Town Council comments are as follows:



- Following the provision of the updated Heritage Statement, subject to the Conservation Officer considering the detailed design acceptable - no objection.
  - Any approval should be conditioned that the random cobbles in the area behind the existing gate, which have recently been at least partially lifted, are fully re-instated. This is considered necessary as the proposed new gates will open this area to public view. Reinstatement of the random cobbles will ensure that this important element of the heritage of this part of the site is retained.
- 4.2 Stokesley Conservation Group - Response date 24 August 2021; The group are still in favour to the above amendments to this proposal and therefore still advise approval to be granted
- 4.3 Highways - Response date 6 September 2021; There are no local highway authority objections to the proposals.
- 4.4 Neighbours - 10 responses received 30, 31 August and 1, 2, 8, 9 and 21 September 2021: a summary of the neighbours' objections to the proposal are below:
- The council allowed the established trees to be decimated with no allowance for the timing of the felling and the birds nesting and no consideration for the look of the area.
  - Loss of privacy and visual amenity
  - Increase flooding
  - Noise, disturbance, and air pollution
  - The development would neither "preserve nor enhance" the local appearance of the Conservation Area and the materials would not conform with all the other buildings in the area.
  - In the section re the open and transparent decision making the application form states that the applicant is related or otherwise connected to an authority member or employee but fails to state what that relation is. I think we should know this relationship.

(Officer Note: The applicant's agent erroneously completed this section as they are on the Parish Council in Potto.)

- Traffic generation in an already built-up area, increased lack of highway safety
  - Over-development of the site involving considerable loss of garden.
  - We have concern that the size of the development and the attached workshop may therefore have a commercial aspect- potentially including rental of garages and car repairs.
  - I understand the decision will be a delegated decision by an Officer, will the discussions be recorded and published and can an allowed decision be appealed.
  - The significant heritage feature loss of the timber gate archway on West End. The archway is mentioned in the Carrick conveyance dated 11th October 1867.
- 5.0 Analysis

- 5.1 The main planning issues raised by this application are whether the proposed development would have a detrimental impact on:
- i) the significance of the Conservation Area; ii) whether the design and form of the proposed development would have a detrimental impact on the character and appearance of the dwelling and; iii) the residential amenities of nearby properties
- 5.2 S66 of the Planning (Listed Buildings and Conservation Areas) Act requires us to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. The National Planning Policy Framework paragraphs 199 to 202 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset
- 5.3 Paragraph 195 of the 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.
- 5.4 Paragraph 199 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.
- 5.5 Paragraph 200 states that 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. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.
- 5.6 DP28 of the Hambleton Local Development Framework states that development within or affecting the feature or its setting should seek to preserve or enhance all aspects that contribute to its character and appearance.
- 5.7 There are two potential areas of conflict in terms of heritage matters, resulting from this application. The replacement of the large timber door to West End with wrought iron gates and the formation of the new garage buildings, leading to a loss of open garden within the Conservation Area.

- 5.8 The door is located within a brick archway to the rear elevation of the curtilage, this door is between terraced dwellings off West End within Stokesley Conservation Area and Article 4 Direction.
- 5.9 The proposal to replace the wooden door with a wrought Iron gate would be acceptable in principle. Wrought iron gates and railings are a typical characteristic feature within this part of the Conservation Area. The existing door is in a poor state of repair, so the proposal to replace this element to the rear of the curtilage with a wrought iron gate, would enhance the character and appearance of that area of the Conservation Area.
- 5.10 Concern has been expressed about the loss of the cobbles. Within the Heritage statement it states, it is the intention of the applicants to restore the cobbled floor of the passageway where it has been disturbed. This requirement could be included as a conditional requirement of any permission.
- 5.11 The applicant would also like to construct two timber framed garages with horizontal timber boarding and sectional steel roller shutter doors. The roofs would be profiled steel sheeting, the colour and profile would simulate clay pantiles. The garages location would effectively be to the front elevation of the dwelling, which has a very large amenity area. The garages would be well set back from the highway down a long drive, well-hidden from public view within the Conservation Area. The garages would be within the Conservation Area of Stokesley but outside the Article 4 Direction.
- 5.12 The proposed garages would be well hidden from the Conservation Area. Whilst the development results in a degree of openness within the conservation area this is considered to result in no harm to the significance of the Conservation Area. The proposed buildings are of a generally domestic scale and are not considered harmful in this case.
- 5.13 Hambleton District Council's guidance on Domestic Extensions in regard to garages, states; *Provision of an attached or detached garage within the domestic curtilage of a property must relate to the overall design of the dwelling in that its size should not dominate or discord with the existing building. Siting of a garage must maintain a sufficient level of on-site parking.*
- 5.14 Cringle Moor is a large dwelling within a significant plot, the new garages would be sited well away from the existing property. It is noted that these garages are of a significant size. However, taking into consideration the size of the dwelling and plot the proposed size of the garages is considered to be acceptable.
- 5.15 The plot is of a sufficient size to accommodate vehicles for the provision of off-street parking, thus ensuring the protection of highway safety and the visual amenity of the surrounding area.
- 5.16 Policy DP1 and Hambleton District Council's guide on Domestic Extensions states; all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight and development of either two or single storey in nature to the rear of properties will, where applicable, be

assessed on the 45° rule to establish the impact of the proposal on the amenities of neighbouring properties, an extension must not cause any significant loss of light to principal rooms in neighbouring properties, or significant overshadowing to neighbouring gardens.

- 5.17 The garages would be to the front elevation of the host dwelling near neighbouring property's rear boundaries. Taking into consideration the design, height and form of the garages, along with existing boundary screening, it is considered that the proposed impact of these structures would not be significant in terms of their outlook, overlooking, loss of privacy and impact on daylight. Under planning law, individuals do not have a right to a view as such.
- 5.18 Concern has been raised about noise, disturbance, and air pollution. The noise and disturbance would be short term whilst construction is being undertaken, the garages and workshop are for residential use only so the vehicle movements and any disturbance would be limited. A further application for planning permission would be necessary if the proposed buildings were used for any business purpose likely to cause nuisance. In their latest statement, the applicant's agent sets out that; *"The applicants, Mr & Mrs Atha, simply wish to provide secure garage space for their collection of classic cars which are currently housed in various garages around Stokesley. It is not a commercial operation and restoration work on these cars is carried out off-site in a specialist workshop. The "workshop" referred to in this plan is simply to house tools and equipment needed for routine maintenance, no different to an average garage. The locating of these cars at Cringle Moor will not result in more traffic on or off the property."*
- 5.19 Core policy CP17 and Development Policy DP32 state all developments must be of the highest quality design and they must take into account local character and settings.
- 5.20 The proposed garage extensions are in proportion to the size of the plot and the scale of the original dwelling; the proposed garages would be of an acceptable scale and sympathetically designed. The proposed development is considered to have no significant, detrimental impact on the character of the host building, no impact on the significance of the Conservation Area, or its setting. The Development is considered to accord with the requirements of Development Policy DP32.
- 5.21 It is noted in representations that the material proposed for the garages would not be the same as the existing dwelling, that being facing brick. However, it is considered that timber cladding is a sustainable and appropriate building material, which would weather in time, this material is relatively low key and would not dominate or detract from the host dwelling nor the character of the area.

#### Other matters

- 5.22 The Town Council and the neighbouring property's observations raised concern about tree loss. The trees concerned were not covered by a TPO but were protected by being within the Conservation Area. An application was

received by the Council for the removal of the trees. The Council at this point could either TPO the trees or offer no objections to their removal, which was the case on this occasion.

- 5.23 Owing to the residential nature of the proposals within an existing garden (and bearing in mind that this development could have been considered Permitted Development) there is no requirement for a formal Flood Risk Assessment. Matters pertaining to drainage are otherwise covered by the Building Regulations or would be a Civil matter. The applicant's agent states that; *"The "hardstanding" referred to on the plans will be constructed using permeable materials. Surface water from the garage roofs (140sqm) will be drained to soakaways. The number, capacity and position of these will be influenced by ground investigation carried out prior to the development to determine the ground water level and percolation of the sub soil and will be in accordance with Building Regulations."*

#### Planning Balance

- 5.24 It is considered that the proposal is in accordance with the Policies within the Local Development Framework Core Strategy and Development Policies document in that the development proposal will lead to no harm to the significance of the designated heritage asset and there will be no demonstrable adverse impact on adjacent residential amenity or the wider character of the area.

#### 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **GRANTED** subject to the following conditions.

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings numbered: 2105/04, 08 and 09; received by Hambleton District Council on 2 and 19 August 2021; unless otherwise approved in writing by the Local Planning Authority
3. The development hereby approved shall not be formed of materials other than those detailed within the application form and information received by Hambleton District Council on 2 and 19 August 2021; unless otherwise agreed in writing by the Local Planning Authority.
4. The garages hereby approved shall be used solely for residential use and the housing of motor vehicles and notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning General Permitted Development Order 1995, or subsequent amending Order, no subsequent alteration shall be undertaken.

5. Prior to occupation of the development hereby approved, the cobbles at the West End entrance shall be re-instated in accordance with the applicant's heritage statement.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies CP1, DP1, CP17, DP32, CP16, DP28, NPPF - National Planning Policy Framework and DOMEX - Domestic Extensions SPD Dec 2009
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. The Local Planning Authority would wish to carefully examine any alternative use of the garage spaces to assess whether the development would be acceptable in terms of policy, access and amenity in accordance with policy.
5. In order to protect the character and appearance of the area and to comply with DP28 and DP32.

**Parish: West Tanfield**

Ward: Tanfield

**11**

Committee Date : 21 October 2021

Officer dealing : Ms Helen Ledger

Target Date: 29 September 2021

Date of extension of time (if agreed):

**21/01617/FUL**

**Conversion of general purpose agricultural livestock and storage building to general industrial use (Class B2), associated parking and new vehicle access and road to the site from the B6267.**

**At: The Long Acres Fore Lane, Thornborough, Bedale**

**For: Steven Houston.**

**The application is brought to Planning Committee at the request of a Member of the Council.**

#### 1.0 Site Context and Proposal

1.1 The site is located to the south of the B6267 and 330m to the north of the village of Thornborough. It is currently accessed via a track from the west, Fore Lane. Visible on site from the public realm are a series of open sided concrete areas for the storage of waste compliant with the current use associated with the applicant's ground maintenance company. At the time of the site visit a series of vehicles were parked on site along with a large truck, with tipping trailer. The wider site is open and covered by grass with some small evergreen pine trees on the north west boundary.

1.2 It is proposed that the large agricultural building granted consent in 2014 and commenced but as yet not complete, change use to allow B2 general industrial uses across the 540sqm floor space. This is to allow the extra space for the expansion of the applicant's business, which is already based at the site. The submitted details indicate the applicant seeks to reserve the possibility of sub dividing the space into 4 separate smaller B2 use units.

1.3 The planning history shows the LPA refused a very similar application (20/01783/FUL) under delegated powers. On the 2020 application, ref 20/01783/FUL the reason(s) for that decision were;

1. This proposal cannot accord with the principles of the development plan policy CP4 by virtue of the location and the nature of development proposed and as such is considered to be an unacceptable and unsustainable form of development in open countryside.

2. The proposal would have a significant harmful impact on the character of the countryside and local area and be contrary to policy DP30.

Reason 2, refers also to the impact of new general industrial uses on the countryside generally, rather than being limited to the buildings itself; which is the same scale as approved in 2014 as an agricultural building, save more large door openings.

1.4 It is noted the applicant is seeking to change the use of a previously approved but as yet uncompleted agricultural building. It is stated they commenced the archaeology research required by conditions on the 2014 permission and have dug foundations and installed the concrete pad, thereby preserving the permission.

## 2.0 Relevant Planning History

2.1 07/02828/FUL : Siting of an agricultural building : Permission Refused Nov 2007.

2.2 08/01199/APN : Prior notification for the siting of a livestock and storage building : Granted June 2008.

2.3 09/02554/APN : Prior Notification for the siting and construction of an agricultural storage building : Granted Oct 2009.

2.4 12/00943/FUL: Change of use of agricultural land to mixed use of agricultural and the storage of trailers and equipment for grounds maintenance company, the construction of a boundary fence and retention of a shed and ancillary hardstanding to store equipment: Permission Granted Aug 2012.

2.5 14/00847/FUL: Proposed general purpose agricultural livestock and storage building: Permission granted May 2014

2.6 20/01783/FUL : Application for the change of use of a general-purpose agricultural livestock and storage building to 7 individual units for Class B2, General Industrial usage - refused with the following two reasons,

1. This proposal cannot accord with the principles of the development plan policy CP4 by virtue of the location and the nature of development proposed and as such is considered to be an unacceptable and unsustainable form of development in open countryside.

2. The proposal would have a significant harmful impact on the character of the countryside and local area and be contrary to policy DP30.

## 3.0 Relevant Planning Policies

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Development Policies DP26 - Agricultural issues

Development Policies DP25 - Rural employment



Development Policies DP28 - Conservation  
Development Policies DP29 - Archaeology  
Development Policies DP3 - Site accessibility  
Hambleton Emerging Local Plan

The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.  
National Planning Policy Framework

#### 4.0 Consultations

##### 4.1 West Tanfield Parish Council - Object.

- Contrary to development plan policy in that it is inappropriate development in open countryside.
- Would have a significant harmful impact on the character of the countryside and local area. It would change the present agricultural field into a small industrial estate.
- The location of the proposed development is within one mile of the ancient monuments of the historic Thornborough henges.
- The creation of the new access on the B6267, over 7m in width to accommodate HGVs, will make a gap in the hedgerow, causing significant adverse visual impact by opening up the view of the site and of the industrial building.
- The proposed development would have an adverse impact on local residents, noise, vehicles disturbance and industrial activity

##### 4.2 NYCC Highways - No objections subject to recommended conditions on the access.

##### 4.3 Environmental Health - This service has considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact. Therefore the Environmental Health Service has no objections.

##### 4.4 NYCC Heritage Services - No objection to the proposal. The site of the building was subject to archaeological research in 2016 and did not reveal findings relevant to the neolithic landscape. This would also be relevant to the south part of the proposed access road. Grascrrete parking area would be unlikely to disturb any archaeological features.

##### 4.5 Site notice posted and neighbours notified. Four representations received, the following is a summary of the issues raised.

###### Support - 2 representations

- As the immediate neighbour - no objection to this proposal
- There is a significant green area and trees between it and local dwellings. Not noted any nuisances in the time that the business has been located at Long Acre.

## Object - 2 representations

- Inappropriate to develop an industrial unit in the countryside, contrary to the qualities identified in the Landscape Character Assessment, an area is sensitive to built development due to its sense of tranquillity and the "Perceptual Quality" of "A quiet and rural area, with relatively few overt signs of modern development, except for the extensive mineral workings at Nosterfield creating a highly modified landscape."
- Discrepancy in the footprint size
- Speculative development, possibility of split into 4 units
- The creation of a new HGV access will change local character, open up a view of the site and the industrial building with paraphernalia and exacerbate the industrial appearance of the proposed development in open countryside
- Have an adverse impact on the setting of Thornborough Henges and the perception of the henges by any visitor approaching them.
- There would be an increase in activity, noise, light pollution and air pollution.
- Have an adverse impact on infrastructure, transport, sewerage and waste disposal.
- A limited bus service into the village, trips would have to travel by car.
- The NPPF gives no more than qualified support to the rural economy, only be applied in particular circumstances.
- The current activities on the site already have an impact eg noise of vehicle movements, voices, guard dogs barking and smoke from bonfires. Expansion of the current activities will add to this.
- Unsustainable and contrary to the emerging local plan
- Strongly object to this application, the location is totally inappropriate for Class B2 use being within 1/4 mile of Thornborough.

## 5.0 Analysis

- 5.1 The main considerations are; i) principle of proposed development; ii) impact on heritage assets; iii) impact on the countryside including long distance views; iv) highway safety and; v) amenity

### Principle

- 5.2 The NPPF offers support for the rural economy under paragraph 84 that states that planning decisions should allow the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; secondly by the development and diversification of agricultural and other land-based rural businesses.
- 5.3 NPPF Para 85 states decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. But notes that it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. Finally, that the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 5.4 Local planning policy is framed around policy CP1 of the Core Strategy states development that would significantly harm the natural or built environment or that would generate an adverse traffic impact will not be permitted. Proposals would be supported if they promote and encourage sustainable development.
- 5.5 As the site is located outside of the settlement boundary and within open countryside, Policies CP4 and DP9 are of relevance. Policies CP4 and DP9 state that development will only be permitted beyond development limits in exceptional cases, subject to several criteria. In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications. These relate to where:
- It is necessary to meet the needs of agriculture, recreation, tourism and other enterprises with an essential requirement to be located in the countryside and will help support a sustainable rural economy;
  - It is necessary to secure a significant improvement to the environment or the conservation of a feature of acknowledged importance;
  - It would provide affordable housing or community facilities which meet a local need; where that need cannot be met in a settlement within the hierarchy;
  - It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing;
  - It would make provision for renewable energy generation, of a scale and design appropriate to its location;
  - It would support the social and economic regeneration of rural areas.
- 5.6 The site is located in the open countryside close the hamlet of Thornborough, which has no facilities. The application does not claim any of the CP4 exceptions. Instead the applicant is seeking the change of use of an agricultural building, not yet completed. Some pre commencement archaeological works have been undertaken and the applicant states the concrete base is currently being used as staff car parking with the foundations having been dug out between the 8th and 11th of March 2016. The pillar foundations were installed later in the year. Photographs have been supplied and show some parked cars and what appears to be overgrown structures.
- 5.7 Policy DP26 would support farm diversification and whilst the LPA has supported conversion to B2 uses for farm diversification these have been accepted within farmsteads. This site is not a working farmstead.
- 5.8 The applicant proposes that the change would support the local economy. The planning statement states that anticipated activity would be machinery repair and services and it was confirmed that this is a projected business rather than servicing the existing businesses equipment. It is also noted in the submissions the applicant's son has recently qualified in arboriculture and the applicant would like to expand the business further in this direction. The case officer has sought more information to substantiate this, such as a business plan, and two projected accountancy balance sheets have been provided that show that both the existing business operating from the site would be profitable alongside an arboriculturally focused one to November 2022. Whilst this is useful, it does not provide clear details of the plans for growth in the

target markets and demonstrate there is an established need to make use of the whole building or the smaller sub-divided units proposed, nor does this establish why a rural location would be necessary for the proposed development.

5.9 Therefore, it is considered that the proposal fails on the matter of principle.

#### Heritage

5.10 Paragraph 193 of the NPPF 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.

5.11 The footprint of the proposed building was subject to an archaeological strip, map and record excavation in 2016. Based on the findings and comments from Historic England and NYCC Heritage; and the recorded data it is considered that the current proposal will not result in harm to the significance of any heritage assets.

5.12 The site is 0.8km (measured in a straight line) from Thornborough Henges which is a neolithic landscape of national significance. It has been raised in the consultation exercise that this proposal would affect the setting of this feature. Whilst the approach and setting of such landscapes is important, it is considered this site is too far away to result in harm to the significance of the asset.

#### Character

5.13 As stated, the site is flat and open and readily visible from the main road to the north. Policy DP30 protects the openness and intrinsic quality of the countryside. The proposal to move away from the agricultural use of the building to general industrial, would result in a scale and nature of associated activity that is considered to have a significant harmful impact on the character of the area. This is a remote site within the countryside, some distance away from similar activities which are well located on Leeming Bar industrial estate for instance. The addition of a new road access would give a greater view into the site than at present and the access will be of a scale sufficient to accommodate HGV access, which in itself would change local character. The northern boundary is mixed and views into the site when travelling along the main road are largely open.

#### Highway Safety

5.14 The Highways Authority have confirmed that the current access is not likely to be suitable for the proposed use, without further research and assessment. The site is not well located for public transport options and therefore does not accord with the central approaches of the plan to locate development in sustainable locations, policy CP1 and policy CP2.

#### Amenity

- 5.15 Policy DP1 requires that the impact of development on residential amenity be assessed and the proposal is close to the nearby settlement of Thornborough. This is a remote site within the countryside and whilst the proposed development will result in a change to the noise and traffic profiles associated with the site, it is considered that the development would have no harmful impact on residential amenity.
- 5.16 It is noted that the Environmental Health service has not objected and they note that they have no records of any statutory nuisance complaints. Based on the information submitted by the applicant and the location of the residents the Environmental Health Team did not feel the proposed development will have an impact on the residents.

#### Planning balance

- 5.17 It is considered that this proposal cannot accord with the principles of the development plan by virtue of the location and the nature of development proposed and is therefore recommended for refusal. Whilst the proposal may help support two profitable businesses, these are not supported by evidence of demand for units or a robust business case. The NPPF would support sustainable rural businesses, but this exception does not take priority over development that is insensitive to its surroundings. This scheme would still result in an unsustainable development in the countryside.

#### 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason(s)

The reasons for the above conditions are:-

1. This proposal cannot accord with the principles of the development plan policy CP4 by virtue of the location and the nature of development proposed and as such is considered to be an unacceptable and unsustainable form of development in open countryside.
2. The proposal would have a significant harmful impact on the character of the countryside and local area and be contrary to policy DP30 and DP32.

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**Parish: Dalton**  
Ward: Sowerby and Topcliffe  
**12**

Committee Date: 21 October 2021  
Officer dealing: Jon Berry  
Target Date: 18 June 2021  
Date of extension of time (if agreed):

**21/01122/MRC**

**Application for removal of condition 3 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/04/037/0123B (04/02047/FUL) for the change of use of agricultural land to enable the siting of 3 static caravans  
At: Dalton Bridge House Caravan Park, field adjacent to Dalton Bridge House, Dalton Lane, Dalton  
For: Mr & Mrs Cowell**

**This application is presented to the Planning Committee due to it being a departure from the Development Plan**

## **1.0 Site, context and proposal**

- 1.1 Dalton Bridge Caravan Park is located on Dalton Lane, Dalton, from which vehicular access is taken. The application site is located to the west of Dalton and east of Topcliffe, opposite Eldmire Lane. Directly to the north and east is the Cod Beck, then open countryside and the A168. To the west is Dalton Bridge, open countryside and the A168. To the east is the property of Greystones and open countryside, with Eldmire Farm to the south east. To the south is Dalton Industrial Estate. Land opposite the site (24.57 hectares), surrounding Elmire Farm is allocated for employment use as allocation: DAL 1: Extension to Dalton Industrial Estate Employment Allocation within the emerging Local Plan. There is a tall, landscaped boundary at present to the south east of the site along Dalton Lane in the form of hedges and trees situated on the opposite site of the road to the caravan park.
- 1.2 The site itself is surrounded by trees and hedging, including along Dalton Lane with grassed open space and ornamental garden features within the site. Each plot is enclosed by timber fencing/hedging and incorporates parking and outdoor space/garden area. Accommodation comprises of a mixture of static caravans, lodges and park homes of various sizes, designs and materials. Infrastructure incorporates an existing septic tank and current energy is derived from gas bottles.
- 1.3 Upon entrance to the park the internal access road forks both east and west. To the east of the vehicular access pitches are laid out in circular form around the internal gravelled access road which serves them. To the west of the access point is a gravelled car park, grassed area and greenhouse with six caravans fronting onto the internal access road, three facing north and three facing south. Further west are two further groups comprising of three and four pitches in two groups. Adjacent to these is Dalton Bridge House, the applicant's property, and associated outbuildings/garage, gardens and a parking area.

- 1.4 The application is seeking to delete condition 3 from planning permission 04/02047/FUL (Change of use of agricultural land to enable the siting of 3 static caravans) to allow all year-round permanent residential occupancy. Condition 3 reads as follows:

'The occupation of the caravans hereby approved shall be restricted to holiday visitors only and no person or persons shall occupy the accommodation for more than 8 weeks consecutively. No caravans on the site shall be occupied during the period from the 15th January to the 15th February in each year.

Reason: In order to prevent the accommodation being occupied as dwellings contrary to the Hambleton District Wide Local Plan Policies L1 and Hambleton Local Development Framework Core Strategy Policy CP4.

- 1.5 The specific part of the site that planning permission 04/02047/FUL relates to is three plots to the south of the site directly to the west of the existing greenhouse and car parking area, adjacent to Dalton Lane.
- 1.6 The application form advises that recent changes locally have rendered the caravan park unsuitable for continued holiday use. The submitted supporting documents explain that there are currently 26 pitches on the park. The applicant advises that the initial planning permission was granted in 1963 for four residential pitches (pitches 1-4), but with an eleven-month occupancy condition imposed. It is unclear whether this restriction is through the imposition of a planning condition as the council's current planning history records do not extend back to the 1960's. In 1999 permission was granted for three pitches as holiday pitches (pitches 1a-1c). These are restricted to eleven-month occupancy and that they should not be occupied for more than 56 consecutive nights. The applicant advises that council tax has been paid on these properties since at least 2002 when the applicants bought the park. In 2005 permission was granted for a further three pitches for holiday homes (pitches 1d-1f subject of this application). Again, these have the same restrictions imposed and council tax has been paid on them. In 2014 permission was granted for sixteen twelve-month holiday pitches (pitches 11-16). As such there are a number of planning permissions associated with the incremental growth of the park over time.
- 1.7 The applicant advises that for many years the park was considered a quiet rural park, attractive to holiday visitors. Although close to the A168, traffic noise was limited due to noise reducing road surfacing. The industrial estate was some distance away and there was good tree screening. Subsequently the road surface has been changed and there is more traffic noise. The tree screen has been removed opening views to the industrial estate which has been expanded to include warehouses directly opposite the park. The recent permission for l'Anson animal feed mill and its new entrance means that heavy traffic passes directly past and is likely to do so on a 24/7 basis. This has meant that the site is no longer viable as a holiday park. The growth of the industrial land and the jobs generated means that there is increased demand for accommodation locally. The site is ideally suited to meet this growing need and as laid out is suitable for residential use. Additional viability, marketing information and letters of support from occupiers of properties within the park have also been submitted with the application.



- 1.8 There are two further concurrent applications currently under consideration as follows, which effectively seek permission in totality for the caravan park as a whole (26 pitches) to be used for permanent residential occupancy, without holiday use restriction and without occupation time limiting constraints by removing the relevant conditions as follows:

21/01125/MRC - Application for removal of condition 9 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/99/037/0123A for Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council and

21/01126/MRC - Application for removal of condition 9 (occupancy use) of approved application 14/01388/FUL. To allow for all year-round residential occupancy.

- 1.9 The applicant has confirmed acceptance of a planning condition limiting all the accommodation on the site to be available for the over 55's only.

## **2.0 Relevant planning and enforcement history**

- 2.1 2/99/037/0123 - Siting of 3 static holiday caravans and formation of access as amended by plans received by Hambleton District Council. Refused 22 June 1999.
- 2.2 99/50319/P (2/99/037/0123A) - Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council. Approved 18 November 1999.
- 2.3 01/50174/P - Infilling and surfacing of land for the prevention of flooding. Approved 4 April 2001.
- 2.4 99/50318/P - Construction of a domestic double garage with workshop/store to replace existing garage and store.
- 2.5 02/00983/FUL - Conservatory extension to existing dwelling. Approved 22 July 2002.
- 2.6 04/02047/FUL (2/04/037/0123B) - Change of use of agricultural land to enable the siting of 3 static caravans. Approved 10 January 2005.
- 2.7 14/01388/FUL - Change of use of agricultural land to caravan park. Approved 17 September 2014.
- 2.8 14/01388/DCN - Discharge of condition(s) attached to application 14/01388/FUL. Approved 21 December 2015.
- 2.9 21/01125/MRC - Application for removal of condition 9 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/99/037/0123A for siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council on 22nd September 1999 - pending consideration.

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Relevant off-site planning history

- 2.11 19/01626/FUL - Construction of agricultural feed mill, warehouse, access and parking arrangements and associated works. l'Anson's Dalton. Approved 4 February 2020.
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### **3.0 Relevant planning policies**

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Core Strategy Policy CP1 - Sustainable development

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Development Policies DP1 - Protecting amenity

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Development Policies DP30 - Protecting the character and appearance of the countryside

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#### **4.0 Consultations**

- 4.1 Dalton Parish Council - No objections.
- 4.2 Swale and Ure IDB - No comment.
- 4.3 Environment Agency – No comments received.
- 4.4 Highway Authority - No objections raised.
- 4.5 Environmental Health - Based on the information provided we believe there will be no significant impact on the local amenity. The change to permanent residential occupation for the whole site will, however, require an application to be made for amendment of the existing site licence under the Mobile Homes Act 2013 and various improvements to be made to the site to ensure compliance with the council's adopted Conditions for Permanent Residential Sites. It might be appropriate to attach an Informative to this effect to any planning approvals. The Environmental Health Service has no objections as the applicant is aware of the need to comply with conditions for permanent residential sites and has indicated willingness to comply with them.
- 4.6 Public Comments - No publicly submitted comments have been received in relation to this particular referenced planning application.

#### **5.0 Analysis**

- 5.1 The main issues to consider are: (i) the principle of development in this location; (ii) the impact on residential amenity, (iii) highway safety; (v) flooding and drainage and (iv) other matters.

## Principle

- 5.2 Notwithstanding the general view that the site is not considered to be isolated and is considered to be a relatively sustainable location, close to Dalton and Topcliffe and the surrounding road network, the site falls outside of Development Limits as identified in the Local Development Framework (LDF). Therefore, development is only considered acceptable under LDF policies in exceptional circumstances, set out in Policy CP4. These include where development: is necessary to meet the needs of farming, forestry, recreation, tourism, and other enterprises with an essential requirement to locate in the countryside; is necessary to secure a significant improvement to the environment of the conservation feature; would provide affordable housing; would re-use existing buildings and support a sustainable rural economy; would make provision for renewable energy generation; or it would support the social and economic regeneration of rural areas.
- 5.3 It is also appropriate to consider whether there are material considerations that outweigh the provisions of the Development Plan. The NPPF represents up to date government planning policy and is a material consideration that must be taken into account where relevant to a planning application, along with any other considerations relevant to making the planning decision and the weight which is to be given.
- 5.4 It has been concluded in a recent planning appeal decision that mobile homes can be a type of affordable housing. The basis for the conclusion is the National Planning Policy Framework as revised in 2021. This defines affordable housing as “housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers; and which complies with one or more of the following definitions....c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households”. Mobile homes can therefore be considered to offer an affordable means of providing home ownership. The NPPF requires the council to address the needs of groups with specific housing requirements, particularly the elderly and those requiring single storey accommodation.
- 5.5 It is noted that the applicant has confirmed acceptance of a condition limiting all the accommodation on the site to be available for the over 55's only through targeting of this market due to perspective occupants seeking to downsize. Indeed, the applicants have advised that the interest that they have is from this age group and above who are looking to sell or have sold their homes. A planning condition is recommended to ensure there are no properties constructed of bricks and mortar at the site so they remain under the definition of discounted market sales housing and offer a route to affordable accommodation for the older generation.
- 5.6 Policy CP8 requires proposals for housing to take appropriate account of local housing needs in terms of size, type and tenure of dwellings. The Council's approach in relation to the general type of housing required is covered by Policy DP13. The overarching aim of Policy DP13 is that the proposed development meets

the needs of all sections of the local community, promotes sustainable communities and social cohesion and supports the local economy. Policy CP9 sets out the % requirements for affordable housing delivery on development sites to help meet housing needs, and in this location requires 40% of housing development schemes within the Thirsk sub area. Policy DP15 adds to the definition and explanation provided under Policy CP9 and identifies the key definitions or principles on which the provision of affordable housing will be achieved.

- 5.7 Paragraph 62 of the NPPF states that 'within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)'.
- 5.8 Paragraph 63 of the NPPF states that 'where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless: (a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and (b) the agreed approach contributes to the objective of creating mixed and balanced communities. Paragraph 65 states that 'where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:(a) provides solely for Build to Rent homes; (b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students); (c) is proposed to be developed by people who wish to build or commission their own homes; or (d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.
- 5.9 In this case it is noted, subject to the imposition of a planning condition, that the site would be available solely for over 55's. As such it is considered that the proposal meets the general thrust of the NPPF in that it would support affordable housing for the over 55's in a rural area, likely residents seeking to downsize and vacate larger properties. The proposal would provide a significant opportunity to provide a form of development that would make a contribution to meeting the housing requirements of an ageing population comprising of single storey properties or varying sizes. The development offers an affordable route to home ownership and the units accord with the aims of the NPPF in that they address the needs of the elderly and those requiring single storey accommodation. A Section 106 Agreement to secure a financial contribution towards affordable housing elsewhere is not considered to be justifiable in these circumstances.
- 5.10 It is considered that the existing makeup of the site is also relevant. The applicant advises that the initial planning permission was granted in 1963 for four residential pitches, but with an eleven-month occupancy condition imposed. It is clear that given the passage of time these four units would be considered to be lawful permanent residential dwellings. In 1999 permission was granted for three pitches as holiday pitches as holiday pitches. These are restricted to eleven-month

occupancy and that they should not be occupied for more than 56 consecutive nights. The applicant advises that council tax has been paid on these properties since at least 2002 when the applicants bought the park. In 2005 permission was granted for a further three pitches for holiday homes (the subject of this application). Again, these have the same restrictions imposed and council tax has been paid on them. As such it is considered that given the passage of time of over 10 years depending on if and when planning conditions were breached, it may be the case that these units would be lawful as permanent resident dwellings, should the conditions have been breached for the last ten years. However, it is reasonable to consider that there is a mix of lawful residential units and holiday units occupying the site at present.

- 5.11 A further material consideration relevant is the clear changing context of the surrounding environment. Indeed, this is noted and acknowledged in the consideration of the applicants and existing occupants supporting information that the impact has led to and is likely to lead further to continuing issues in attracting holiday makers and buyers of property on a holiday basis to the site. Indeed, it is apparent that existing owners are unable to sell their holiday property. In this respect it is noted that planning permission has recently been granted at Eldmire Lane for employment development comprising industrial uses and/or storage or distribution uses. This coupled with changes to the adjacent road infrastructure and Dalton Bridge and the recent grant of planning permission in February 2020 at l'Ansons, Dalton Bridge Mill, Dalton Industrial Estate for the construction of agricultural feed mill, warehouse, access and parking arrangements and associated works on, inevitably means a noisier and less suitable environment to attract holiday makers and purchasers of holiday properties due to two-way traffic past the park.

#### Impact on residential amenity

- 5.12 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight. Development must make provision for the basic amenity needs of occupants and/or users, including where appropriate provision for an adequate level of open space for the use of occupants/users of the development. Development must not unacceptably reduce the existing level of amenity space about buildings, particularly dwellings, and not unacceptably affect the amenity of residents or occupants.
- 5.13 It is not considered that there would be any further impact on adjacent residential amenity both within or adjacent to the site. The site contains 26 pitches at the present time and permanent residential occupation would not significantly increase noise, vehicular traffic or comings and goings to any significantly harmful degree. The site is well screened. There would be no additional impact on adjacent residential amenity in respect of loss of light, outlook or privacy.
- 5.14 It is however necessary to consider whether the site, pitches and accommodation is appropriate for permanent living. From a site visit it was noted that the site is well laid out and green with areas of open spaces, landscaping and trees. Plots are relatively spacious, with garden/outdoor space and parking set within individual sites which are set well apart (more than six metres) to also meet fire regulations. It is noted that dogs are required to be kept on leads and gardens maintained. It is considered that the environment within the site itself is pleasant. It is acknowledged

that the accommodation is either static caravans, chalets, park homes or lodges and are unlikely to meet Nationally Described Space Standards for dwellings. However, it is considered that they accommodate the space and amenities required for yearlong living for those that are likely to have actively chosen to purchase this type of accommodation due to downsizing in later life. Provision is made for waste and recycling. Sewerage facilities are currently being receiving remedial works and it is proposed that gas infrastructure is to be installed in due course.

- 5.15 It is noted that, should planning permission be granted the owner would be required to amend the terms of the site licence to comply with the requirements of the 'Model Standards 2008 for Caravan Sites in England Caravan Sites and Control of Development Act 1960 – Section 5'. This, amongst other matters will require the provision of street lighting, tarmac surfaces, road drainage, footways and upgrades to electricity supply of which the owner is aware of.

#### Highway safety

- 5.16 The proposals make use of the existing access point onto the existing road network. Internally to the site are footways and space available for cycle storage. The use of the site for permanent residential occupancy is not considered to have any significant additional impact on pedestrian or vehicular safety from the present situation and indeed this view is support by the Highways Authority.

#### Flooding and drainage

- 5.17 The part of the application site subject to this application lies within flood zone one and therefore this particular part of the site is at low risk of fluvial flooding.
- 5.18 It is understood that the current septic tank is currently being remediated. This has included recent cleaning/emptying, the proposed fitting of a vent with a carbon filter and ensuring the tank is airtight. It is important that necessary works are undertaken so that the on-site sewerage disposal system can accommodate the required capacity for permanent residential accommodation without impact on the residential or natural environment. It is understood that this meets the expectations of the council's environmental health team. Should the effluent load be increased due to year-round long residency then a consent permit to increase the existing discharge volume into the beck may be required from the Environment Agency. This would be secured via the imposition of an appropriate planning condition.

#### Other matters

- 5.19 It is considered that the use of the site for permanent residential occupancy would have no additional impact on the character and appearance of the area or any further effect on ecology or the landscape. The scale, layout, design and materials would remain as the present situation.

#### Planning balance

- 5.20 It is considered that there are no technical impediments to the proposal in respect of impacts on drainage, highway safety, landscape/ecology and residential amenity.

- 5.21 The proposal does not generally comply with Policies CP4 and DP9 of the Development Plan and therefore the assessment is whether there are material considerations which are considered to outweigh the presumption in favour of the Development Plan in this case. The proposal, if supported would ultimately grant permission for twenty-six permanent affordable dwellings in the open countryside.
- 5.22 On balance the material considerations identified as follows can reasonably be considered to hold determining weight so as to outweigh the conflict with the Development Plan in this case.
- 5.23 The site is considered to be located in a brownfield, previously-developed, sustainable location rather than isolated. It is recognised that there is a mix of lawful permanent residential units and holiday units on the site. The proposal would assist in meeting the needs of an ageing population in a rural area and offer a route to market, but discounted, affordable housing for the older generation. It is acknowledged that the changing circumstances of the business and the context of the surrounding environment render the use of the park for holiday accommodation as unlikely to be reasonably viable. There is market demand from groups with specific housing requirements, particularly the elderly, and the adaptation of some of the existing single storey properties on the site for the purposes of permanent affordable accommodation would address these needs and accord with the aims of the NPPF.

## **6.0 Recommendation**

- 6.1 That subject to any outstanding consultations, the imposition of the following conditions listed below and subject to the applicant entering into an agreement under Section 106 of the Town and Country Planning Act to ensure that the park remains affordable in perpetuity, the application be **Granted**.

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings:

‘Proposed additional park home, lodges and caravans on individual plots with parking in field no. 1821, Dalton Bridge House, Dalton Lane, Thirsk. May 2014. Drawing no. CW/1255/5/14.

received by Hambleton District Council on 29 April 2021.

3. The chalets, lodges, park homes and static caravans shall be used for permanent occupation for persons over the age of 55 only.
4. No more than 26 caravans, lodges, park homes and chalets shall be situated within the site at any time and there shall be no provision of buildings constructed in bricks and mortar on the site.



5. Within three months of the date of this permission details of sewerage water disposal shall be submitted to the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the timeframes agreed with the Local Planning Authority as part of the approved scheme.

Reasons:

1. To ensure compliance with Section 91 of the Town and Country Planning Act 1990.
2. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. In order to provide a mix of housing in the District and to meet the needs of an ageing population.
4. In order to restrict otherwise inappropriate development in the countryside without further consideration by the Local Planning Authority.
5. To ensure that the sewerage disposal system can accommodate any increased flows in the interest of residential amenity and the natural environment.

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**Parish: Dalton**  
Ward: Sowerby and Topcliffe  
**13**

Committee Date: 21 October 2021  
Officer dealing: Jon Berry  
Target Date: 18 June 2021  
Date of extension of time (if agreed):

**21/01125/MRC**

**Application for removal of condition 9 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/99/037/0123A for Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council on 22nd September 1999**

**At: Dalton Bridge House Caravan Park, field adjacent to Dalton Bridge House, Dalton Lane, Dalton**  
**For: Mr & Mrs Cowell**

**This application is presented to the Planning Committee due to it being a departure from the Development Plan**

## **1.0 Site, context and proposal**

- 1.1 Dalton Bridge Caravan Park is located on Dalton Lane, Dalton, from which vehicular access is taken from. The application site is located to the west of Dalton and east of Topcliffe, opposite Eldmire Lane. Directly to the north and east is the Cod Beck, then open countryside and the A168. To the west is Dalton Bridge, open countryside and the A168. To the east is the property of Greystones and open countryside, with Eldmire Farm to the south east. To the south is Dalton Industrial Estate. Land opposite the site (24.57 hectares), surrounding Elmire Farm is allocated for employment use as allocation: DAL 1: Extension to Dalton Industrial Estate Employment Allocation within the emerging Local Plan. There is tall, landscaped boundary at present to the south east on the site along Dalton Lane in the form of hedges and trees situated on the opposite site of the road to the caravan park.
- 1.2 The site itself is surrounded by trees and hedging, including along Dalton Lane with grassed open space and ornamental garden features within the site. Each plot is enclosed by timber fencing/hedging and incorporates parking and outdoor space/garden area. Accommodation comprises of a mixture of static caravans, lodges and park homes of various sizes, designs and materials. Infrastructure incorporates an existing septic tank and current energy is derived from gas bottles.
- 1.3 Upon entrance to the park the internal access road forks both east and west. To the east of the vehicular access pitches are laid out in circular form around the internal gravelled access road which serves them. To the west of the access point is a gravelled car park, grassed area and greenhouse with six caravans fronting onto the internal access road, three facing north and three facing south. Further west are two further groups comprising of three and four pitches in two groups. Adjacent to these is Dalton Bridge House, the applicant's property, and associated outbuildings/garage, gardens and a parking area.

- 1.4 The application is seeking to delete condition 9 from planning permission 2/99/037/0123A (Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton) to allow all year-round permanent residential occupancy. Condition 9 reads as follows:
- 'The occupation of the caravans hereby approved shall be restricted to holiday visitors only and no person or persons shall occupy the accommodation for more than 8 weeks consecutively. No caravans on the site shall be occupied during the period from the 15th January to 15th February in each year.
- Reason: The Local Planning Authority does not consider that the accommodation is suitable or properly located for permanent residential use.
- 1.5 The specific part of the site that planning permission 2/99/037/0123A is three plots to the southwest of the site, directly to the south east of Dalton Bridge House, opposite Eldmire Lane.
- 1.6 The application form advises that recent changes locally have rendered the caravan park unsuitable for continued holiday use. The submitted supporting documents explain that there are currently 26 pitches on the park. The applicant advises that the initial planning permission was granted in 1963 for four residential pitches (pitches 1-4), but with an eleven-month occupancy condition imposed. It is unclear whether this restriction is through the imposition of a planning condition as the council's current planning history records do not extend back to the 1960's. In 1999 permission was granted for three pitches as holiday pitches (pitches 1a-1c, subject of this application). These are restricted to eleven-month occupancy and that they should not be occupied for more than 56 consecutive nights. The applicant advises that council tax has been paid on these properties since at least 2002 when the applicants bought the park. In 2005 permission was granted for a further three pitches for holiday homes (pitches 1d-1f). Again these have the same restrictions imposed and council tax has been paid on them. In 2014 permission was granted for sixteen twelve-month holiday pitches (pitches 11-16). As such there are a number of planning permissions associated with the incremental growth of the park over time.
- 1.7 The applicant advises that for many years the park was considered a quiet rural park, attractive to holiday visitors. Although close to the A168, traffic noise was limited due to noise reducing road surfacing. The industrial estate was some distance away and there was good tree screening. Subsequently the road surface has been changed and there is more traffic noise. The tree screen has been removed opening views to the industrial estate which has been expanded to include warehouses directly opposite the park. The recent permission for l'Anson animal feed mill and its new entrance means that heavy traffic passes directly past and is likely to do so on a 24/7 basis. This has meant that the park is longer viable as a holiday park. The growth of the industrial park and the jobs it has created means that there is increased demand for accommodation locally. The site is ideally suited to meet this growing need and as laid out is suitable for residential use. Additional viability, marketing information and letters of support from occupiers of properties within the park have also been submitted with the application.

- 1.8 There are two further concurrent applications currently under consideration as follows, which effectively seek permission in totality for the caravan park as a whole (26 pitches) to be used for permanent residential occupancy, without holiday use restriction and without occupation time limiting constraints by removing the relevant conditions as follows:

Application for removal of condition 3 (occupancy use - to allow for all year- round residential occupancy) of approved application 2/04/037/0123B (04/02047/FUL) for the change of use of agricultural land to enable the siting of 3 static caravans

21/01126/MRC - Application for removal of condition 9 (occupancy use) of approved application 14/01388/FUL. To allow for all year-round residential occupancy.

- 1.9 The applicant has advised that they would accept a planning condition limiting all the accommodation on the site to be available for the over 55's only.

## **2.0 Relevant planning and enforcement history**

- 2.1 2/99/037/0123 - Siting of 3 static holiday caravans and formation of access as amended by plans received by Hambleton District Council. Refused 22 June 1999.
- 2.2 99/50319/P (2/99/037/0123A) - Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton. Approved 18 November 1999.
- 2.3 01/50174/P - Infilling and surfacing of land for the prevention of flooding. Approved 4 April 2001.
- 2.4 99/50318/P - Construction of a domestic double garage with workshop/store to replace existing garage and store.
- 2.5 02/00983/FUL - Conservatory extension to existing dwelling. Approved 22 July 2002.
- 2.6 04/02047/FUL (2/04/037/0123B) - Change of use of agricultural land to enable the siting of 3 static caravans. Approved 10 January 2005.
- 2.7 14/01388/FUL - Change of use of agricultural land to caravan park. Approved 17 September 2014.
- 2.8 14/01388/DCN - Discharge of condition(s) attached to application 14/01388/FUL. Approved 21 December 2015.
- 2.9 Application for removal of condition 3 (occupancy use - to allow for all year- round residential occupancy) of approved application 2/04/037/0123B (04/02047/FUL) for the change of use of agricultural land to enable the siting of 3 static caravans- pending consideration.
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## Relevant off-site planning history

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- 2.12 21/00331/HYB - Hybrid planning application seeking a) Outline planning permission for employment development comprising industrial uses (Class B2/E(g)(iii)) and/or storage or distribution uses (Class B8), including ancillary office space, with associated infrastructure and landscaping; and b) Full planning permission for creation of new main access and road spur with associated infrastructure. Part OS Field 6717, Eldmire Lane, Dalton. Minded to grant planning permission subject to the completion of a Section 106 agreement.

## 3.0 Relevant planning policies

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

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#### **4.0 Consultations**

- 4.1 Dalton Parish Council - No objections.
- 4.2 Swale and Ure IDB - No comment.
- 4.3 Yorkshire Water – No observations.
- 4.4 Environment Agency – No comments received.
- 4.5 Highway Authority - No objections raised.
- 4.6 Environmental Health - Based on the information provided believe there will be no significant impact on the local amenity. The change to permanent residential occupation for the whole site will, however, require an application to be made for amendment of the existing site licence under the Mobile Homes Act 2013 and various improvements to be made to the site to ensure compliance with the council's adopted Conditions for Permanent Residential Sites. It might be appropriate to attach an Informative to this effect to any planning approvals. The Environmental Health Service has no objections as the applicant is aware of the need to comply with conditions for permanent residential sites and has indicated willingness to comply with them.
- 4.7 Public Comments - One letter of support has been received from a resident of the park. The resident suggests that should the application be successful the following conditions should apply: Good quality street lighting should be installed on all interior access roads and general parking areas. Good quality tarmac surfaces should be laid to all these roads. A large very visible illuminated site map should be installed in the entrance to the park to ensure emergency services and delivery drivers can find all properties easily. Investigations should be conducted to ensure that existing sewage treatment facilities are adequate to cope with residential status compared with limited holiday usage. Checks should be made to ensure Cod Beck is suitable to receive increased septic tank outfalls compared with present intermittent loads. A reduction of the current 60 mph speed limit to 30mph on Dalton Lane and Eldmire Lane and a footpath from the park area to Topcliffe village where doctor, shop, post office, bus and pub facilities are available for park residents to use. These items are vital in the interest of road safety as Dalton Lane

in particular simulates Brands Hatch now. The planned increase in the size of the industrial estate and the forthcoming feed mill will increase traffic volume massively. To walk in the area now is akin to walking on a motorway and is extremely dangerous.

## 5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of development in this location; (ii) the impact on residential amenity, (iii) highway safety; (v) flooding and drainage and (iv) other matters.

### Principle

- 5.2 Notwithstanding the general view that the site is not considered to be isolated and is considered to be a relatively sustainable location, close to Dalton and Topcliffe and the surrounding road network, the site falls outside of Development Limits as identified in the Local Development Framework (LDF). Therefore, development is only considered acceptable under LDF policies in exceptional circumstances, set out in Policy CP4. None of the exceptions identified under Policy CP4 are considered to apply. These include where development: is necessary to meet the needs of farming, forestry, recreation, tourism, and other enterprises with an essential requirement to locate in the countryside; is necessary to secure a significant improvement to the environment of the conservation feature; would provide affordable housing; would re-use existing buildings and support a sustainable rural economy; would make provision for renewable energy generation; or it would support the social and economic regeneration of rural areas.
- 5.3 It is also appropriate to consider whether there are material considerations that outweigh the provisions of the Development Plan. The NPPF represents up to date government planning policy and is a material consideration that must be taken into account where relevant to a planning application, along with any other considerations relevant to making the planning decision and the weight which is to be given.
- 5.4 It has been concluded in a recent planning appeal decision that mobile homes can be a type of affordable housing. The basis for the conclusion is the National Planning Policy Framework as revised in 2021. This defines affordable housing as “housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers; and which complies with one or more of the following definitions...c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households”. Mobile homes can therefore be considered to offer an affordable means of providing home ownership. The NPPF requires the council to address the needs of groups with specific housing requirements, particularly the elderly and those requiring single storey accommodation
- 5.5 It is noted that the applicant has confirmed acceptance of a condition limiting all the accommodation on the site to be available for the over 55's only through targeting of this market due to perspective occupants seeking to downsize. Indeed, the



applicants have advised that the interest that they have is from this age group and above who are looking to sell or have sold their homes. A planning condition is recommended to ensure there are no properties constructed of bricks and mortar at the site so they remain under the definition of discounted market sales housing and offer a route to affordable accommodation for the older generation.

- 5.6 Policy CP8 requires proposals for housing to take appropriate account of local housing needs in terms of size, type and tenure of dwellings. The Council's approach in relation to the general type of housing required is covered by Policy DP13. The overarching aim of Policy DP13 is that the proposed development meets the needs of all sections of the local community, promotes sustainable communities and social cohesion and supports the local economy. Policy CP9 sets out the % requirements for affordable housing delivery on development sites to help meet housing needs, and in this location requires 40% of housing development schemes within the Thirsk sub area. Policy DP15 adds to the definition and explanation provided under Policy CP9 and identifies the key definitions or principles on which the provision of affordable housing will be achieved.
- 5.7 Paragraph 62 of the NPPF states that 'within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)'.
- 5.8 Paragraph 63 of the NPPF states that 'where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless: (a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and (b) the agreed approach contributes to the objective of creating mixed and balanced communities. Paragraph 65 states that 'where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:(a) provides solely for Build to Rent homes; (b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students); (c) is proposed to be developed by people who wish to build or commission their own homes; or (d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.
- 5.9 In this case it is noted, subject to the imposition of a planning condition, that the site would be available solely for over 55's. As such it is considered that the proposal meets the general thrust of the NPPF in that it would support affordable housing for the over 55's in a rural area, likely residents seeking to downsize and vacate larger properties. The proposal would provide a significant opportunity to provide a form of development that would make a contribution to meeting the housing requirements of an ageing population comprising of single storey properties or varying sizes. The development offers an affordable route to home ownership and the units accord with the aims of the NPPF in that they address the needs of the elderly and those

requiring single storey accommodation. A Section 106 Agreement to secure a financial contribution towards affordable housing elsewhere is not considered to be justifiable in these circumstances.

- 5.10 It is considered that the existing makeup of the site is also relevant. The applicant advises that the initial planning permission was granted in 1963 for four residential pitches, but with an eleven-month occupancy condition imposed. It is clear that given the passage of time these four units would be considered to be lawful permanent residential dwellings. In 1999 permission was granted for three pitches as holiday pitches as holiday pitches. These are restricted to eleven-month occupancy and that they should not be occupied for more than 56 consecutive nights. The applicant advises that council tax has been paid on these properties since at least 2002 when the applicants bought the park. In 2005 permission was granted for a further three pitches for holiday homes (the subject of this application). Again these have the same restrictions imposed and council tax has been paid on them. As such it is considered that given the passage of time of over 10 years depending on if and when planning conditions were breached, it may be the case that these units would be lawful as permanent resident dwellings, should the conditions have been breached for the last ten years. However it is reasonable to consider that there is a mix of lawful residential units and holiday units occupying the site at present.
- 5.11 A further material consideration relevant is the clear changing context of the surrounding environment. Indeed, this is noted and acknowledged in the consideration of the applicants and existing occupants supporting information that the impact has led to and is likely to lead further to continuing issues in attracting holiday makers and buyers of property on a holiday basis to the site. Indeed, it is apparent that existing owners are unable to sell their holiday property. In this respect it is noted that planning permission has recently been granted at Eldmire Lane for employment development comprising industrial uses and/or storage or distribution uses. This coupled with changes to the adjacent road infrastructure and Dalton Bridge and the recent grant of planning permission in February 2020 at l'Ansons, Dalton Bridge Mill, Dalton Industrial Estate for the construction of agricultural feed mill, warehouse, access and parking arrangements and associated works on, inevitably means a noisier and less suitable environment to attract holiday makers and purchasers of holiday properties due to two-way traffic past the park.

#### Impact on residential amenity

- 5.12 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight. Development must make provision for the basic amenity needs of occupants and/or users, including where appropriate provision for an adequate level of open space for the use of occupants/users of the development. Development must not unacceptably reduce the existing level of amenity space about buildings, particularly dwellings, and not unacceptably affect the amenity of residents or occupants.
- 5.13 It is not considered that there would be any further impact on adjacent residential amenity both within or adjacent to the site. The site contains 26 pitches at the present time and permanent residential occupation would not significantly increase noise, vehicular traffic or comings and goings to any significantly harmful degree.

The site is well screened. There would be no additional impact on adjacent residential amenity in respect of loss of light, outlook or privacy.

- 5.14 It is however necessary to consider whether the site, pitches and accommodation is appropriate for permanent living. From a site visit it was noted that the site is spacious and green with areas of open spaces, landscaping and trees. Plots are relatively spacious, with garden/outdoor space and parking set within individual plots which are set well apart (more than six metres) to also meet fire regulations. It is noted that dogs are required to be kept on leads and gardens maintained. It is considered that the environment within the site itself is pleasant. It is acknowledged that the accommodation is either static caravans, chalets, park homes or lodges and are unlikely to meet Nationally Described Space Standards for dwellings. However it is considered that they accommodate the space and amenities required for yearlong living for those that are likely to have actively chosen to purchase this type of accommodation due to downsizing in later life. Provision is made for waste and recycling. Sewerage facilities are currently being upgraded and it is proposed that gas infrastructure is to be installed in due course.
- 5.15 It is noted that, should planning permission be granted the owner would be required to amend the terms of the site licence to comply with the requirements of the 'Model Standards 2008 for Caravan Sites in England Caravan Sites and Control of Development Act 1960 – Section 5'. This, amongst other matters will require the provision of street lighting, tarmac surfaces, road drainage, footways and upgrades to electricity supply of which the owner is aware of.

#### Highway safety

- 5.16 The proposals make use of the existing access point onto the existing road network. Internally to the site are footways and space available for cycle storage. The use of the site for permanent residential occupancy is not considered to have any significant additional impact on pedestrian or vehicular safety from the present situation and indeed this view is supported by the Highways Authority.

#### Flooding and drainage

- 5.17 The part of the application site subject to this application lies within flood zone one and therefore this particular part of the site is at low risk of fluvial flooding.
- 5.18 It is understood that the current septic tank is currently in the process of being upgraded, including recent cleaning, emptying the fitting of a vent with a carbon filter and ensuring that the tank is airtight. It is important that necessary works are undertaken to ensure that the on-site sewerage disposal system can accommodate the required capacity for permanent residential accommodation without impact on the residential or natural environment. It is understood that this meets the expectations of the council's environmental health team. This is intended to be ensured via the imposition of an appropriate planning condition.

#### Other matters

- 5.19 It is considered that the use of the site for permanent residential occupancy would have no additional impact on the character and appearance of the area or any

further effect on ecology or the landscape. The scale, layout, design and materials would remain as the present situation.

#### Planning balance

- 5.20 It is considered that there are no technical impediments to the proposal in respect of impacts on drainage, highway safety, landscape/ecology and residential amenity.
- 5.21 The proposal does not generally comply with Policies CP4 and DP9 of the Development Plan and therefore the assessment is whether there are material considerations which are considered to outweigh the presumption in favour of the Development Plan in this case. The proposal, if supported would ultimately grant permission for twenty-six permanent affordable dwellings in the open countryside.
- 5.22 On balance the material considerations identified as follows can reasonably be considered to hold determining weight so as to outweigh the conflict with the Development Plan in this case.
- 5.23 The site is considered to be located in a brownfield, previously-developed, sustainable location rather than isolated. It is recognised that there is a mix of lawful permanent residential units and holiday units on the site. The proposal would assist in meeting the needs of an ageing population in a rural area and offer a route to market, but discounted, affordable housing for the older generation. It is acknowledged that the changing circumstances of the business and the context of the surrounding environment render the use of the park for holiday accommodation as unlikely to be reasonably viable. There is market demand from groups with specific housing requirements, particularly the elderly, and the adaptation of some of the existing single storey properties on the site for the purposes of permanent affordable accommodation would address these needs and accord with the aims of the NPPF.

## 6.0 Recommendation

- 6.1 That subject to any outstanding consultations, the imposition of the following conditions listed below and subject to the applicant entering into an agreement under Section 106 of the Town and Country Planning Act to ensure that the park remains affordable in perpetuity, the application be **Granted**.

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings:

‘Proposed additional park home, lodges and caravans on individual plots with parking in field no. 1821, Dalton Bridge House, Dalton Lane, Thirsk. May 2014. Drawing no. CW/1255/5/14.

received by Hambleton District Council on 29 April 2021.

3. The chalets, lodges, park homes and static caravans shall be used for permanent occupation for persons over the age of 55 only.
4. No more than 26 caravans, lodges, park homes chalets shall be situated within the site at any time and there shall be no provision of buildings constructed in bricks and mortar on the site.
5. No part of the existing hedge along the southern frontage boundary of the site shall be uprooted or removed and the hedge shall not be reduced below a height of 3.0 metres
6. One car parking space of a size not less than 2.4 metres x 4.8 metres shall be provided for each caravan within three months of the date of this permission. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose.
7. Within three months of the date of this permission details of sewerage water disposal shall be submitted to the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the timeframes agreed with the Local Planning Authority as part of the approved scheme.

Reasons:

1. To ensure compliance with Section 91 of the Town and Country Planning Act 1990.
2. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. In order to provide a mix of housing in the District and to meet the needs of an ageing population.
4. In order to restrict otherwise inappropriate development in the countryside without further consideration by the Local planning Authority.
5. To ensure that the appearance of the frontage of the site is in keeping with the character of the area.
6. To provide for adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwellings and visitors to them, in the interest of safety and the general amenity of the development.
7. To ensure that the sewerage disposal system can accommodate any increased flows in the interest of residential amenity and the natural environment.

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**Parish: Dalton**  
Ward: Sowerby and Topcliffe  
**14**

Committee Date: 21 October 2021  
Officer dealing: Jon Berry  
Target Date: 24 June 2021  
Date of extension of time (if agreed):

**21/01126/MRC**

**Application for removal of condition 9 (occupancy use) of approved application 14/01388/FUL. To allow for all year-round residential occupancy**  
**At: Dalton Bridge House Caravan Park, field adjacent to Dalton Bridge House, Dalton Lane, Dalton**  
**For: Mr & Mrs Cowell**

**This application is presented to the Planning Committee due to it being a departure from the Development Plan**

## **1.0 Site, context and proposal**

- 1.1 Dalton Bridge Caravan Park is located on Dalton Lane, Dalton, from which vehicular access is taken. The application site is located to the west of Dalton and east of Topcliffe, opposite Eldmire Lane. Directly to the north and east is the Cod Beck, then open countryside and the A168. To the west is Dalton Bridge, open countryside and the A168. To the east is the property of Greystones and open countryside, with Eldmire Farm to the south east. To the south is Dalton Industrial Estate. Land opposite the site (24.57 hectares), surrounding Elmire Farm is allocated for employment use as allocation: DAL 1: Extension to Dalton Industrial Estate Employment Allocation within the emerging Local Plan. There is a high, landscaped boundary at present to the south east on the site along Dalton Lane in the form of hedges and trees situated on the opposite site of the road to the caravan park.
- 1.2 The site itself is surrounded by trees and hedging, including along Dalton Lane with grassed open space and ornamental garden features within the site. Each plot is enclosed by timber fencing/hedging and incorporates parking and outdoor space/garden area. Accommodation comprises of a mixture of static caravans, lodges and park homes of various sizes, designs and materials. Infrastructure incorporates an existing septic tank and current energy is derived from gas bottles.
- 1.3 Upon entrance to the park the internal access road forks both east and west. To the east of the vehicular access pitches are laid out in circular form around the internal gravelled access road which serves them. To the west of the access point is a gravelled car park, grassed area and greenhouse with six caravans fronting onto the internal access road, three facing north and three facing south. Further west are two further groups comprising of three and four pitches in two groups. Adjacent to these is Dalton Bridge House, the applicant's property, and associated outbuildings/garage, gardens and a parking area.

1.4 The application is seeking to remove condition 9 (occupancy use) from planning permission 14/01388/FUL (change of use of agricultural land to caravan park) to allow for all year-round residential occupancy. Condition 9 reads as follows:

'The development must comply with the following requirements that:

- (i) the caravans or cabins/chalets are occupied for the holiday purposes only;
- (ii) the caravans or cabins/chalets shall not be occupied as a person's sole, or main place of residence;
- (iii) the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans/cabins/chalets on the site, and of their main home addresses. The owner/operator shall advise the Local Planning Authority of the name and address of the holder of the records and shall make the information on the register available at all reasonable times to the Local Planning Authority.

Reason: To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation and can thereby contribute to the economy without undue demands on local schools, social and health services etc, and in accordance with the objectives of the Hambleton Local Development Framework Policies CP15 and DP25.

1.5 The specific part of the site that planning permission 14/01388/FUL is twelve plots to the east of the site and three further plots to the west of these fronting onto the internal access road.

1.6 The application form advises that recent changes locally have rendered the caravan park unsuitable for continued holiday use. The submitted supporting documents explain that there are currently 26 pitches on the park. The applicant advises that the initial planning permission was granted in 1963 for four residential pitches (pitches 1-4), but with an eleven-month occupancy condition imposed. It is unclear whether this restriction is through the imposition of a planning condition as the council's current planning history records do not extend back to the 1960's. In 1999 permission was granted for three pitches as holiday pitches as holiday pitches (pitches 1a-1c). These are restricted to eleven-month occupancy and that they should not be occupied for more than 56 consecutive nights. The applicant advises that council tax has been paid on these properties since at least 2002 when the applicants bought the park. In 2005 permission was granted for a further three pitches for holiday homes (pitches 1d-1f). Again, these have the same restrictions imposed and council tax has been paid on them. In 2014 permission was granted for sixteen twelve-month holiday pitches (pitches 11-16 subject of this application). As such there are a number of planning permissions associated with the incremental growth of the park over time.

1.7 The applicant advises that for many years the park was considered a quiet rural park, attractive to holiday visitors. Although close to the A168, traffic noise was limited due to noise reducing road surfacing. The industrial estate was some distance away and there was good tree screening. Subsequently the road surface has been changed and there is more traffic noise. The tree screen has been removed opening views to the industrial estate which has been expanded to include warehouses directly opposite the park. The recent permission for l'Anson animal feed mill and its new entrance means that heavy traffic passes directly past and is likely to do so on a 24/7 basis. This has meant that the park is longer viable



as a holiday park. The growth of the industrial park and the jobs it has created means that there is increased demand for accommodation locally. The site is ideally suited to meet this growing need and as laid out is suitable for residential use. Additional viability, marketing information and letters of support from occupiers of properties within the park have also been submitted with the application.

- 1.8 There are two further concurrent applications currently under consideration as follows, which effectively seek permission in totality for the caravan park as a whole (26 pitches) to be used for permanent residential occupancy, without holiday use restriction and without occupation time limiting restriction by removing the restrictive conditions on all the relevant permissions:

Application for removal of condition 3 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/04/037/0123B (04/02047/FUL) for the change of use of agricultural land to enable the siting of 3 static caravans

Application for removal of condition 9 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/99/037/0123A for Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council on 22nd September 1999

- 1.9 The applicant has advised that they would accept a planning condition limiting all the accommodation on the site to be available for the over 55's only.

## **2.0 Relevant planning and enforcement history**

- 2.1 2/99/037/0123 - Siting of 3 static holiday caravans and formation of access as amended by plans received by Hambleton District Council. Refused 22 June 1999.
- 2.2 99/50319/P (2/99/037/0123A) - Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton. Approved 18 November 1999.
- 2.3 01/50174/P - Infilling and surfacing of land for the prevention of flooding. Approved 4 April 2001.
- 2.4 99/50318/P - Construction of a domestic double garage with workshop/store to replace existing garage and store.
- 2.5 02/00983/FUL - Conservatory extension to existing dwelling. Approved 22 July 2002.
- 2.6 04/02047/FUL (2/04/037/0123B) - Change of use of agricultural land to enable the siting of 3 static caravans. Approved 10 January 2005.
- 2.7 14/01388/FUL - Change of use of agricultural land to caravan park. Approved 17 September 2014.
- 2.8 14/01388/DCN - Discharge of condition(s) attached to application 14/01388/FUL. Approved 21 December 2015.

- 2.9 21/01122/MRC - Application for removal of condition 3 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/04/037/0123B (04/02047/FUL) for the change of use of agricultural land to enable the siting of 3 static caravans-pending consideration.
- 2.10 21/01125/MRC - Application for removal of condition 9 (occupancy use - to allow for all year-round residential occupancy) of approved application 2/99/037/0123A for Siting of 3 static holiday caravans and formation of an access road as amended by letter and plans received by Hambleton District Council on 22nd September 1999

Relevant off-site planning history

- 2.11 19/01626/FUL - Construction of agricultural feed mill, warehouse, access and parking arrangements and associated works. l'Anson's Dalton. Approved 4 February 2020.
- 2.12 21/00331/HYB - Hybrid planning application seeking a) Outline planning permission for employment development comprising industrial uses (Class B2/E(g)(iii)) and/or storage or distribution uses (Class B8), including ancillary office space, with associated infrastructure and landscaping; and b) Full planning permission for creation of new main access and road spur with associated infrastructure. Part OS Field 6717, Eldmire Lane, Dalton. Minded to grant planning permission subject to the completion of a Section 106 agreement.

### **3.0 Relevant planning policies**

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP5 - The scale of new housing

Core Strategy Policy CP6 - Distribution of housing

Core Strategy Policy CP8 - Type, size and tenure of housing

Core Strategy Policy CP9 - Affordable housing

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Core Strategy Policy CP18 - Prudent use of natural resources

Core Strategy Policy CP19 - Recreational facilities and amenity open space

Core Strategy Policy CP21 - Safe response to natural and other forces

Development Policies DP1 - Protecting amenity

Development Policies DP2 - Securing developer contributions

Development Policies DP3 - Site accessibility

Development Policies DP4 - Access for all

Development Policies DP6 - Utilities and infrastructure

Development Policies DP8 - Development Limits

Development Policies DP9 - Development outside Development Limits  
Development Policies DP13 - Achieving and maintaining the right mix of housing  
Policy DP15 - Promoting and Maintaining Affordable Housing  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation  
Development Policies DP32 - General design  
Development Policies DP33 – Landscaping  
Development Policies DP43 - Flooding and floodplain

Affordable Housing - Supplementary Planning Guidance - June 2008  
Supplementary Planning Document - Size, type and tenure of new homes.  
Adopted September 2015  
Supplementary Planning Document - Open Space, Sport and Recreation  
Adopted 22 February 2011  
National Planning Policy Framework

Hambleton Emerging Local Plan  
The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

#### **4.0 Consultations**

- 4.1 Dalton Parish Council - Supports the application and have advised that they would like to see this done.
- 4.2 Swale and Ure IDB - No comment.
- 4.3 Yorkshire Water - No observations.
- 4.4 Environment Agency – No comments received.
- 4.5 Highway Authority - No objections raised.
- 4.6 Environmental Health - Based on the information provided we believe there will be no significant impact on the local amenity. The change to permanent residential occupation for the whole site will, however, require an application to be made for amendment of the existing site licence under the Mobile Homes Act 2013 and various improvements to be made to the site to ensure compliance with the council's adopted Conditions for Permanent Residential Sites. It might be appropriate to attach an Informative to this effect to any planning approvals. The Environmental Health Service has no objections as the applicant is aware of the need to comply with conditions for permanent residential sites and has indicated willingness to comply with them.
- 4.7 Public Comments - One letter of support has been received as follows: The initial planning permission for the first residential units was granted back in 1962 with a number of planning approvals for additional holiday restricted pitches in

subsequent years. This mix of use was suitable for the local environment at the time. The national & local ambient experience has evolved considerably since then with the rise in population, car ownership, road infrastructure improvements, the success of the industrial estate and people's expectations for a holiday experience. The demand for holiday homes in this immediate area has diminished whilst the demand for residential homes has increased.

## 5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of development in this location; (ii) the impact on residential amenity, (iii) highway safety; (v) flooding and drainage and (iv) other matters.

### Principle

- 5.2 Notwithstanding the general view that the site is not considered to be isolated and is considered to be a relatively sustainable location, close to Dalton and Topcliffe and the surrounding road network, the site falls outside of Development Limits as identified in the Local Development Framework (LDF). Therefore, development is only considered acceptable under LDF policies in exceptional circumstances, set out in Policy CP4. These include where development: is necessary to meet the needs of farming, forestry, recreation, tourism, and other enterprises with an essential requirement to locate in the countryside; is necessary to secure a significant improvement to the environment of the conservation feature; would provide affordable housing; would re-use existing buildings and support a sustainable rural economy; would make provision for renewable energy generation; or it would support the social and economic regeneration of rural areas.
- 5.3 It is also appropriate to consider whether there are material considerations that outweigh the provisions of the Development Plan. The NPPF represents up to date government planning policy and is a material consideration that must be taken into account where relevant to a planning application, along with any other considerations relevant to making the planning decision and the weight which is to be given.
- 5.4 It has been concluded in a recent planning appeal decision that mobile homes can be a type of affordable housing. The basis for the conclusion is the National Planning Policy Framework as revised in 2021. This defines affordable housing as "housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers; and which complies with one or more of the following definitions....c) Discounted market sales housing: is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households". Mobile homes can therefore be considered to offer an affordable means of providing home ownership. The NPPF requires the council to address the needs of groups with specific housing requirements, particularly the elderly and those requiring single storey accommodation.

- 5.5 It is noted that the applicant has confirmed acceptance of a condition limiting all the accommodation on the site to be available for the over 55's only through targeting of this market due to perspective occupants seeking to downsize. Indeed, the applicants have advised that the interest that they have is from this age group and above who are looking to sell or have sold their homes. A planning condition is recommended to ensure there are no properties constructed of bricks and mortar at the site so they remain under the definition of discounted market sales housing and offer a route to affordable accommodation for the older generation.
- 5.6 Policy CP8 requires proposals for housing to take appropriate account of local housing needs in terms of size, type and tenure of dwellings. The Council's approach in relation to the general type of housing required is covered by Policy DP13. The overarching aim of Policy DP13 is that the proposed development meets the needs of all sections of the local community, promotes sustainable communities and social cohesion and supports the local economy. Policy CP9 sets out the % requirements for affordable housing delivery on development sites to help meet housing needs, and in this location requires 40% of housing development schemes within the Thirsk sub area. Policy DP15 adds to the definition and explanation provided under Policy CP9 and identifies the key definitions or principles on which the provision of affordable housing will be achieved.
- 5.7 Paragraph 62 of the NPPF states that 'within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)'.
- 5.8 Paragraph 63 of the NPPF states that 'where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless: (a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and (b) the agreed approach contributes to the objective of creating mixed and balanced communities. Paragraph 65 states that 'where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:(a) provides solely for Build to Rent homes; (b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students); (c) is proposed to be developed by people who wish to build or commission their own homes; or (d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.
- 5.9 In this case it is noted, subject to the imposition of a planning condition, that the site would be available solely for over 55's. As such it is considered that the proposal meets the general thrust of the NPPF in that it would support affordable housing for the over 55's in a rural area, likely residents seeking to downsize and vacate larger

properties. The proposal would provide a significant opportunity to provide a form of development that would make a contribution to meeting the housing requirements of an ageing population comprising of single storey properties or varying sizes. The development offers an affordable route to home ownership and the units accord with the aims of the NPPF in that they address the needs of the elderly and those requiring single storey accommodation. A Section 106 Agreement to secure a financial contribution towards affordable housing elsewhere is not considered to be justifiable in these circumstances.

- 5.10 It is considered that the existing makeup of the site is also relevant. The applicant advises that the initial planning permission was granted in 1963 for four residential pitches, but with an eleven-month occupancy condition imposed. It is clear that given the passage of time these four units would be considered to be lawful permanent residential dwellings. In 1999 permission was granted for three pitches as holiday pitches as holiday pitches. These are restricted to eleven-month occupancy and that they should not be occupied for more than 56 consecutive nights. The applicant advises that council tax has been paid on these properties since at least 2002 when the applicants bought the park. In 2005 permission was granted for a further three pitches for holiday homes (the subject of this application). Again, these have the same restrictions imposed and council tax has been paid on them. As such it is considered that given the passage of time of over 10 years depending on if and when planning conditions were breached, it may be the case that these units would be lawful as permanent resident dwellings, should the conditions have been breached for the last ten years. However, it is reasonable to consider that there is a mix of lawful residential units and holiday units occupying the site at present.
- 5.11 A further material consideration relevant is the clear changing context of the surrounding environment. Indeed, this is noted and acknowledged in the consideration of the applicants and existing occupants supporting information that the impact has led to and is likely to lead further to continuing issues in attracting holiday makers and buyers of property on a holiday basis to the site. Indeed, it is apparent that existing owners are unable to sell their holiday property. In this respect it is noted that planning permission has recently been granted at Eldmire Lane for employment development comprising industrial uses and/or storage or distribution uses. This coupled with changes to the adjacent road infrastructure and Dalton Bridge and the recent grant of planning permission in February 2020 at l'Ansons, Dalton Bridge Mill, Dalton Industrial Estate for the construction of agricultural feed mill, warehouse, access and parking arrangements and associated works on, inevitably means a noisier and less suitable environment to attract holiday makers and purchasers of holiday properties due to two-way traffic past the park.

Impact on residential amenity

- 5.12 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight. Development must make provision for the basic amenity needs of occupants and/or users, including where appropriate provision for an adequate level of open space for the use of occupants/users of the development. Development must not unacceptably reduce the existing level of amenity space about buildings, particularly dwellings, and not unacceptably affect the amenity of residents or occupants.

- 5.13 It is not considered that there would be any further impact on adjacent residential amenity both within or adjacent to the site. The site contains 26 pitches at the present time and permanent residential occupation would not significantly increase noise, vehicular traffic or comings and goings to any significantly harmful degree. The site is well screened. There would be no additional impact on adjacent residential amenity in respect of loss of light, outlook or privacy.
- 5.14 It is however necessary to consider whether the site, pitches and accommodation is appropriate for permanent living. From a site visit it was noted that the site is spacious and green with areas of open spaces, landscaping and trees. Plots are relatively spacious, with garden/outdoor space and parking set within individual plots which are set well apart (more than six metres) to also meet fire regulations. It is noted that dogs are required to be kept on leads and gardens maintained. It is considered that the environment within the site itself is pleasant. It is acknowledged that the accommodation is either static caravans, chalets, park homes or lodges and are unlikely to meet Nationally Described Space Standards for dwellings. However, it is considered that they accommodate the space and amenities required for yearlong living for those that are likely to have actively chosen to purchase this type of accommodation due to downsizing in later life. Provision is made for waste and recycling. Sewerage facilities are currently being receiving remedial works and it is proposed that gas infrastructure is to be installed in due course.
- 5.15 It is noted that, should planning permission be granted the owner would be required to amend the terms of the site licence to comply with the requirements of the 'Model Standards 2008 for Caravan Sites in England Caravan Sites and Control of Development Act 1960 – Section 5'. This, amongst other matters will require the provision of street lighting, tarmac surfaces, road drainage, footways and upgrades to electricity supply of which the owner is aware of.

#### Highway safety

- 5.16 The proposals make use of the existing access point onto the existing road network. Internally to the site are footways and space available for cycle storage. The use of the site for permanent residential occupancy is not considered to have any significant additional impact on pedestrian or vehicular safety from the present situation and indeed this view is support by the Highways Authority.

#### Flooding and drainage

- 5.17 A small part of the site subject to this application lies within both flood zones 2 and 3 to the north adjacent to the Cod Beck. The three most northern plots lie within flood zone 3, with one plot lying slightly further within flood zone 2. Paragraph 167 of the NPPF states that “when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. 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”.

- 5.18 The application has not been supported by a flood risk assessment, sequential or exceptions test. The Environment Agency have been consulted on the application, however no response has been received to date. It is noted that condition 8 of planning permission 14/01388/FUL stated that ‘No caravan shall be occupied unless it has been set with a floor level that is in accordance with details (including a plan that shows the ordnance datum to which the levels relate) that have previously been submitted to and approved in writing by the Local Planning Authority.’ Subsequently the details approved were that ‘the floor levels of the caravans and lodges be 600mm above ground level of the highest flood level’. As such it is considered appropriate to re-impose the approved details and corresponding approved plan. The pitches and caravans are already in place and have already been considered appropriate for holiday use in this specific location. It is noted that as part of the required amended permanent caravan site licence, where there is risk from flooding the site owner shall consult the Environment Agency for advice on the likelihood of flooding, the depths and velocities that might be expected, the availability of a warning service and on what appropriate measures to take.
- 5.19 It is understood that the current septic tank is currently being remediated. This has included recent cleaning/emptying, the proposed fitting of a vent with a carbon filter and ensuring the tank is airtight. It is important that necessary works are undertaken so that the on-site sewerage disposal system can accommodate the required capacity for permanent residential accommodation without impact on the residential or natural environment. It is understood that this meets the expectations of the council’s environmental health team. Should the effluent load be increased due to year-round long residency then a consent permit to increase the existing discharge volume into the beck may be required from the Environment Agency. This would be secured via the imposition of an appropriate planning condition.

#### Other matters

- 5.20 It is considered that the use of the site for permanent residential occupancy would have no additional impact on the character and appearance of the area or any further effect on ecology or the landscape. The scale, layout, design and materials would remain as the present situation.

#### Planning balance

- 5.21 It is considered that there are no technical impediments to the proposal in respect of drainage, highway safety, landscape/ecology or impact and residential amenity.
- 5.22 The proposal does not generally comply with Policies CP4 and DP9 of the Development Plan and therefore the assessment is whether there are material considerations which are considered to outweigh the presumption in favour of the Development Plan in this case. The proposal, if supported would ultimately grant permission for twenty-six permanent affordable dwellings in the open countryside.



- 5.23 On balance the material considerations identified as follows can reasonably be considered to hold determining weight so as to outweigh the conflict with the Development Plan in this case.
- 5.24 The site is considered to be located in a brownfield, previously-developed, sustainable location rather than isolated. It is recognised that there is a mix of lawful permanent residential units and holiday units on the site. The proposal would assist in meeting the needs of an ageing population in a rural area and offer a route to market, but discounted, affordable housing for the older generation. It is acknowledged that the changing circumstances of the business and the context of the surrounding environment render the use of the park for holiday accommodation as unlikely to be reasonably viable. There is market demand from groups with specific housing requirements, particularly the elderly, and the adaptation of some of the existing single storey properties on the site for the purposes of permanent affordable accommodation would address these needs and accord with the aims of the NPPF.

## 6.0 Recommendation

- 6.1 That subject to any outstanding consultations, the imposition of the following conditions listed below and subject to the applicant entering into an agreement under Section 106 of the Town and Country Planning Act to ensure that the park remains affordable in perpetuity, the application be **Granted**.

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings:

'Proposed additional park home, lodges and caravans on individual plots with parking in field no. 1821, Dalton Bridge House, Dalton Lane, Thirsk. May 2014. Drawing no. CW/1255/5/14.

received by Hambleton District Council on 29 April 2021.

3. The chalets, lodges, park homes and static caravans shall be used for permanent occupation for persons over the age of 55 only.
4. No more than 26 caravans, lodges, park homes and chalets shall be situated within the site at any time and there shall be no provision of buildings constructed in bricks and mortar on the site.
5. Within three months of the date of this permission details of sewerage water disposal shall be submitted to the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the timeframes agreed with the Local Planning Authority as part of the approved scheme.

6. The floor levels of the caravans and lodges shall be retained at 600mm above ground level of the highest flood level in accordance with Drawing no. CW/1255/5/14 'New road layout showing drains and levels. Caravan Park on field no. 18/21 Dalton Bridge House, Dalton Lane, Dalton, Thirsk. YO7 3HP. Dated April 2015.

Reasons:

1. To ensure compliance with Section 91 of the Town and Country Planning Act 1990.
2. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. In order to provide a mix of housing in the District and to meet the needs of an ageing population.
4. In order to restrict otherwise inappropriate development in the countryside without further consideration by the Local planning Authority.
5. To ensure that the sewerage disposal system can accommodate any increased flows in the interest of residential amenity and the natural environment.
6. To ensure that the development is flood resistant and resilient.

**Parish: Great Ayton**

Ward: Great Ayton

**15**

Committee Date : 21 October 2021

Officer dealing : Ms Helen Ledger

Target Date: 9 July 2021

Date of extension of time (if agreed): 13 August 2021

**21/01370/FUL**

**Change of use of land for the siting of a modular building club house (to be used as a facility by lodge park guests, as well as for weddings and private functions), alterations to siting and appearance of siting and appearance of approved lodges, new car parking area and retrospective formation of tiered outdoor seating, outdoor beach area, cinema screen, wedding pergola, internal roads, and all other hard and soft landscaping and associated works - as amended by Hambleton District Council 04.10.2021.**

**At: Strawberry Fields Pannierman Lane Great Ayton Middlesbrough**

**For: Mr A Platts.**

**This application is brought to Planning Committee owing to the complexity of the case and number of representations made.**

1.0 Site, Context and Proposal

- 1.1 The application site is located approximately 1.2 km to the north west of the built up area of Great Ayton. It is sited close to a roundabout, where the A172 (Pannierman Lane - Nunthorpe to the north and Stokesley to the south) meets the B1292, which heads east to Great Ayton. The site is accessed off Pannierman Lane, which currently serves a dwelling with what appears to be an associated holiday cottage. These are set behind planting and a large gate along the A172, which limits views into the site.
- 1.2 Within the site, looking east, the site is seen in the context of the wider countryside, with distant views of Roseberry Topping. However, the site itself appears generally well contained from the wider area, with landscaping particularly strong along the southern and eastern boundary. The northern boundary is more exposed, which runs parallel with the B1292.
- 1.3 This application is for the change of use of land for the installation of a modular building (30m x 15m) along with other consequential changes and ancillary structures and facilities associated with the use. This includes changes to the position and design of five previously approved lodges along with the retrospective formation of tiered outdoor seating, outdoor beach area, cinema screen (screen size 4032mm x 2304mm), wedding pergola, internal roads, and all other hard and soft landscaping. A small extension to the existing ancillary storage shed is also proposed, 9250mm x 3800mm.
- 1.4 The application is in part retrospective as a range of infrastructure and paraphernalia is already on site. The applicant has previously erected a large white oblong marquee on site under the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 allows the marquee to be erected for up to 56 days of the year until 31st December 2021. This marquee has been used for events over recent months and this use has been subject complaints to the Council's Environmental Health and Planning Enforcement Services. The Marquee was still on site at the time of the last officer site visit on 16.09.21, and it is understood from the agent that this structure has now been removed.

1.5 The application was first submitted for the permanent siting of the marquee, however under negotiation with the applicant/agent this has been amended to propose a more permanent structure. This amendment along with wider revisions to landscaping and the submission of a noise assessment formed part of a second round of public consultation, the second commencing on 05.10.21. Consultee and public comments received after the officer report deadline will be reported on the update list.

## 2.0 Relevant Planning History

2.1 18/02453/MRC - Application for variation of condition No: 3 (approved plans; elevations SQ-0799-01-2 and floor plan layout SQ-0799-01) attached to previously approved application 16/00915/FUL - Construction of 10 no. holiday lodges, recreational pond and internal road layout - Granted

2.2 16/01915/FUL - Construction of 10 no. holiday lodges, recreational pond and internal road layout - Granted

2.3 20/00937/FUL - Siting of 6no. holiday lodges, and 2no. Solardome pods; and the extending of the internal access drive - Granted 20.08.2020

## 3.0 Relevant Planning Policies

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Development Policies DP1 - Protecting amenity

Development Policies DP30 - Protecting the character and appearance of the countryside

Development Policies DP32 - General design

Development Policies DP3 - Site accessibility

Development Policies DP4 - Access for all

Hambleton Emerging Local Plan

The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at

<https://www.hambleton.gov.uk/homepage/60/new-local-plan-examination>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

Core Strategy Policy CP19 - Recreational facilities and amenity open space

Development Policies DP38 - Major recreation

National Planning Policy Framework

## 4.0 Consultations

4.1 The application was subject to two rounds of public consultation, the second commencing on 05.10.21.

4.2 Great Ayton Parish Council - Having received several complaints from residents Great Ayton Parish Council expresses concern regarding application 21/01370/FUL that the permanent siting of a marquee in the Panniermann Lane / Strawberry Fields

location will be entirely out of keeping with the rural setting and as such it should be considered as a temporary structure which is to be dismantled after each after use.

- 4.3 NYCC Highways - No final comments received on the first consultation as more information sought on:  
The approximate number of guests expected to attend events; and  
The quantity of event car parking proposed.
- 4.4 Environmental Health - Having reviewed the supporting information submitted by the applicant. The marquee is already on site and in use. The Environmental Health Team have received several noise complaints from amplified music during events at the marquee. The applicant has not provided details to demonstrate how the breakout of amplified music or acoustic instruments from the marquee will be controlled to prevent the likelihood of further noise complaints. Therefore, in the interest of the amenity, the Environmental Health Team would recommend refusal.

Further comments of the Environmental Health Officer awaited at the time of writing and will be reported to Committee through the Update sheet.

- 4.4 Contaminated Land - The applicant has submitted a Preliminary Assessment of Land Contamination (PALC) which have not identified any potential sources of contamination on the form and therefore the risk of contamination affecting the development or end users is considered to be low. No objections.
- 4.5 NYCC Footpaths - There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary. The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order. Where public access is to be retained during the development period, it shall be kept free from obstruction and all persons working on the development site must be made aware that a Public Right of Way exists, and must have regard for the safety of Public Rights of Way users at all times.
- 4.6 Natural England - no comments, standing advice referred to.
- 4.7 Site notice posted and neighbours notified. 56 representations received, the following is a summary of the issues raised.

SUPPORT - 34 individual representations

- It is the most beautiful, clean, smart and modern venue
- It is situated in a gorgeous part of the country with the most amazing views
- A much-needed addition to this area and opportunity for local business/employment/industry supply
- An ideal venue for the location and also great for the local area
- It's about time we had a venue on our door step instead of having to travel miles and miles away
- Great benefit to the area and add something extra to an established business for the use of locals and tourists alike
- Brings interest to the area
- Benefit the area re jobs for the area in the current climate
- love the place, would go again
- This will boost the economy in this area, excellent facilities
- It has been created employment in the local community and is supporting business(s) nearby

- A fantastic location and a great use of the space. Very few areas around Middlesbrough that can cater for the events
- Lodges are high quality unlike anything else in the area
- It only enhance the facility, the vicinity and the visitor experience
- Staycations are more popular due to current restrictions so having more availability in the area would be fantastic

It is noted that in the majority the representations made in support have been received from members of the public residing outside the district.

OBJECT - 22 individual representations

- Object to noise emanating from the site.
- Having recently experienced a 24 hour music event, it is unacceptable that this could become a regular and bigger event.
- No thought has been given to local residents.
- In danger of destroying our village heritage.
- Strongly object to music events being held in a tent so close to my home.
- Why does Roseberry View Lodge Retreat need a permanent fixed Marquee?
- Will these activities need a licence in particular for music?
- How long will the music last and how loud will it be?
- What sound effects will there be on nearby properties?
- There are a number of businesses in the Great Ayton that already provide similar entertainment.
- Noise, particularly at night carries significant distances. Music from a recent event was clearly audible from properties on the western side Great Ayton village, c1,000 m away.
- Support for this planning application appears to be from non-local people, they would not be effected by the noise pollution
- There needs to be more stringent regulation of noise from events in the open countryside.
- The venue will attract people from outside the area including which will not attract additional business to HDC.
- No objection to the original planning application for holiday loges which fits well in this rural location, but this
- development is now more akin to a beach bar in Ibiza rather than a tranquil retreat.
- Not a suitable location for a party venue and this application should be refused.
- The location could encourage ribbon development and eventually "join up" Great Ayton with Nunthorpe. To maintain a reasonable green belt Great Ayton should not be developed to the north.
- Future concern, if the development should fail will there be an opportunity for a housing development on the site ?
- Music events should be held in suitably constructed buildings, it is not possible to soundproof a tent.
- Great Ayton is a quiet rural village, surrounded by open countryside and famed for its views and tranquil location. Sound and light pollution (open air cinema) can travel significant distances across open fields, especially at night.
- Surrounded by small farmsteads, riding stables, an RSPCA centre, boarding kennels and a deer park. If approved, this proposal will cause significant ongoing distress to wildlife and animals.
- Goes against NPPF social role in that it will not 'support community needs, health, social and cultural well-being' also environmental role, 'contribute to protecting and enhancing the historic environment, planning policy should promote leisure developments that benefit rural areas and protect the character and appearance of the countryside.'

- Highways impact would meet the NPPF definition of severe cumulative impact.
- They regularly have events lasting till 11pm at night, can't sit in out garden. Noise travels easily due to lay of land.

## 5.0 Analysis

5.1 The main considerations are; i) the principle of the proposed development; ii) design and impact on the countryside including long distance views and the character of the local area; iii) highway safety and iv) amenity.

### Principle

5.2 It is noted NPPF paragraph 83 gives support for all types of business and enterprise in rural areas; by diversification of land-based businesses and sustainable rural tourism and leisure developments that respect countryside character. Paragraph 84 acknowledges that some sites may be beyond existing settlements and not well served by public transport. In supporting such locations careful consideration is required to ensure it is sensitive to the local environment and local highway infrastructure and exploiting opportunities to make the site more sustainable.

5.3 The site has an established consent for a holiday lodge park including some ancillary facilities such as the sauna, car parking and lakeside platform. However, the change of use of land for hosting events on site is a new use, not covered by the existing permissions. The proposal is presented as providing a club house facility for guests with a range of other on-site structures, such as the tiered seating and beach bar area, which are more aligned with wider events; such as weddings and music events which would not be ancillary to the holiday use. It is clear the building proposed could provide for both purposes, and the principle of an ancillary 'club house' has been accepted on other similar sites with lodge type accommodation; where it could used by groups of friends or family who may want somewhere to congregate all together.

5.4 Policy CP1 of the Core Strategy states development that would significantly harm the natural or built environment or that would generate an adverse traffic impact will not be permitted. Proposals would be supported if they promote and encourage sustainable development.

5.5 The site is located outside of the settlement boundary of Great Ayton and within open countryside, as such policy CP4 is relevant. Policy CP4 states that development will only be permitted beyond the development limits in exceptional cases, subject to several criteria. In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications. These relate to where:

- It is necessary to meet the needs of agriculture, recreation, tourism and other enterprises with an essential requirement to be located in the countryside and will help support a sustainable rural economy;
- It is necessary to secure a significant improvement to the environment or the conservation of a feature acknowledged importance;
- It would provide affordable housing or community facilities which meet a local need; where that need cannot be met in a settlement within the hierarchy;
- It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing;
- It would make provision for renewable energy generation, of a scale and design appropriate to its location;
- It would support the social and economic regeneration of rural areas.

- 5.6 The development of wedding venues in the countryside has previously been established through other permissions granted elsewhere in the district, provided amenity affecting factors, such as noise and traffic, are adequately controlled. It is understood such activities generally require unique and attractive settings, such as a rural site, to offer a particular event experience. In this case it is noted that the site has an attractive setting around a man-made lake and long distance views of the Cleveland hills. Such event activities could meet the requirements of the first element, part i) of policy CP4. Although the offer on site, such as a 'beach bar' and the events planned; Christmas Markets and Apre Ski events, do not have an easy link to the countryside location and it's local inherent qualities.
- 5.7 The advice from the agent is that visitor numbers will vary depending on the type of event and could be between 25 to 100. It is noted that there are a total of 6 bed spaces per lodge and 15 lodges (including the five now proposed) on site providing a theoretical on site demand of 90 people. Fire regulations set occupancy standards for this type of use and given the minimum exit opening sizes, this is anticipated to be in the region of 200 people as a maximum for a venue use of this nature and size, 450 sqm.
- 5.8 As stated the LPA has supported amenity or 'club house' type facilities for holiday lodge/pod sites previously. In considering these, the size of the amenity building has been generally commensurate with the number of lodges on site. For example:
- 20/01831/FUL Ainderby Steeple, Sedgewell Barn has 9 pods, and an amenity building of 116.6sqm formed in an old converted agricultural building.
- 18/02590/FUL Watermill, Carlton Minott, Thirsk has 157 lodges and on site restaurant and leisure facilities of 1232sqm and open to non-visitors
- 13/00926/FUL - Whinstone View Bistro and Lodges, Great Ayton has an established holiday park for 30 touring pitches, 11 lodges and restaurant and in 2013 was granted consent for a function suite of 192 sqm, although this is in addition to the on site restaurant.
- 5.9 This proposal would provide 450 sqm of space, and possibly almost double this if the glazed structure on the roof is to be used as part of the venue. This has been confirmed and a first-floor plan submitted. It is considered that the size and scale of development and the change of use to hold the events proposed is not suitable nor commensurate with the rural location and the wider use of the site, and that the interpretation of policy CP4 in providing an enterprise with an essential requirement to be located in the countryside is not met. Therefore, this application fails as a matter of principle.
- Design
- 5.10 One of Hambleton's strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is "To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character."
- 5.11 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space. The National Planning Policy Framework supports this approach and, at paragraph 134, states that planning permission should be refused for development that fails to respect local design policies. Paragraph 130 of the NPPF states that Planning policies and decisions should ensure that



developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; 39 c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>49</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 5.12 The amended proposal has replaced the marquee with a modular building which it is stated will feature noise insulation. The structure is oblong 30m x 15m but clad in Eurocell Spiced Oak Composite Slatted Cladding Board. Glazed rails to roof could support use of this exterior first floor space also. It would be located at the nearest end of the lake to the access and described as 'rounding off' the development. New lodges are proposed to be relocated either side with a similar external finish.
- 5.13 Policy DP30 protects the countryside for its own sake and its intrinsic qualities. The landscape is generally flat and enclosed by field boundaries, notably hedges. Long distance views of the Cleveland hills are common but on occasion less of the immediate foreground is generally visible. The site is well contained save the northern boundary. It is noted that enhanced planting would bolster this screening, which is welcomed, as well as that within the site. The revised details propose a planting scheme of cherry trees adjacent the pedestrian routes and to the north of the proposed club house, seating area and beach bar. The new landscaping is welcomed and supported by policy DP33. However, the proposal would create a uniform scheme of a single species only. A public right of way runs through the edge of the site and while unaffected, would give a closer view of the development. The modular scheme combined with the closely located additional 5 lodges, would have a significant impact on the character of the site.
- 5.14 Policies on design, DP32 require design to respond to and respect local character. The location of the new club house and new lodges would respond to the existing layout of the site and be contained by the boundaries to help limit the impact. The ancillary structures and features, eg pergola, beach bar, tiered seating, would now be more contained by the site layout but views into the site, particularly from the public right of way, would be affected. The design of the clubhouse is modular and contemporary but fails to respond positively to the character of the area, in particular owing to the absence of a traditional roof form and the inclusion of an open first floor area. The design of the building is considered to be harmful to the rural character and appearance of the area.
- 5.15 In conclusion, it is considered that the design and massing of the proposed development is inappropriate to this rural location and will have a harmful impact on the landscape character of the area and as such fail to accord with the requirements of DP30 and DP32 and the tests set out in paragraph 130 of the NPPF.

#### Highways

- 5.16 At the time of writing the highways authority has yet to consider the impact on highway safety due to the limited information available. More information on highway comments will be provided through the update sheet. On the previous application for

6 new lodges, made in 2020 under ref: 20/00937/FUL, the highways authority made no objection subject to a condition relating to the provision of access turning and parking. In the new submitted details it has been clarified that guest numbers can be expected to be between 25-100, depending on the type of function. The applicant and agent have stated that external guests tend to arrive by taxi/or mini-bus meaning provision for on-site parking is limited in the revised plans.

- 5.17 Policies DP3 and DP4 require development to offer sustainable alternatives and the provision of access for all. It is understood guests have on previous events travelled together sharing vehicles. The site is flat and level and can be arranged to provide access for all.
- Amenity
- 5.18 Policy DP1 seeks to protect local residential amenity, which includes protection from impacts such as noise, light, privacy and disturbance.
- 5.19 The site is within the countryside, the nearest non associated dwelling is Cook's View over the A172 to the west, approximately 140m away. A caravan site 237m to the east was also identified as a close receptor. Adjacent the site are several dwellings owned or resided in by family members of the applicant. Given this relationship the assessment discounts these dwellings.
- 5.20 As is very clear through the consultation exercise, the noise impact is a significant feature of this proposal, which would allow events with external visitors to the site. At the time of writing the Environmental Health officer has not been able yet to respond to the re-consultation exercise. Their comments will be added to the update sheet in due course.
- 5.21 A noise assessment has been submitted, which considered the surveyed background noise over a three day period (12:00 on Friday 10 September to 12:00 on Monday 13 September 2021) against three areas identified as receptor locations where monitoring equipment was set up. On Saturday 11 September there was a birthday party on the beach area with external noise. It began at 19:00 hours and finished at 23:00 hours. Approximately 70 people were in attendance and there was amplified music to a level deemed adequate by management.
- 5.22 The noise assessment report also covers seven events planned should a further temporary permission be granted to reinstate the marquee. It is anticipated that a future application will be submitted separately to deal with this matter and it is not covered in this report.
- 5.23 The core recommendations of the report are:
- The report concludes that the proposed 'club house' shows an external wall reduction of 40dB. Music noise should be kept to levels "reasonable for dancing", and not generally higher than 90dB(A).
  - Higher level "discotheque" type events should be avoided except on special occasions.
  - Windows and doors should be kept closed during musical events, even on hot summer nights and ventilation provided by other sound attenuated means.
  - It recommends angling speakers away from the edges of the building and into the room the use of sound limiters and set to ensure that the noise level does not exceed approximately 85-90 dBA (LAeq,T) at any openings in the building envelope.
  - Periodic noise monitoring at receptor sites
  - Outdoor events to be ceased at 23.00

- 5.24 An accompanying noise management plan has been submitted, which has been prepared for a licencing review, and sets out how the site can be managed based on the above assessment. This also could be used to control the noise emanating from the site through a planning condition.
- 5.25 Notwithstanding this position, although clearly subject to the Environmental Health Officer's response, there remains concern about the nature and scale of the building proposed and as such the likely noise and disturbance resulting from the use of the site including the inclusion of the external first floor and the impact of vehicles entering and leaving the site at antisocial hours. It is considered that the scale and form of the development will lead to a harmful impact on neighbouring residential amenity. A further up-date on matters pertaining to the noise impacts will be provided through the update.

#### Planning balance

- 5.26 It is evident that a new club house building could be permissible on site for the guests residing in the lodges and the Council has granted such consents in the recent past. However, in this case the nature of the offer proposed along with the size and scale of the proposal are considered not to comply with policy CP4 and policy DP30. The noise impacts have been moderated through the change from a marquee to a modular building with some landscaping. However, the design remains a large oblong with extensive glazing which fails to respond to the locality in terms of local distinctiveness. Landscaping is somewhat limited to single species only and the identified market for events sits uneasily with the tranquil countryside setting with long distance views into the site. It is considered this proposal will have a harmful impact on the character of the countryside and that the application has not adequately proven an essential requirement for a rural location.

#### 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **REFUSED** for the reasons set out below:

The reasons for the above conditions are:-

1. This proposal cannot accord with the principles of the development plan policy CP4 and Development policy DP30 and DP32 by virtue of the location and the nature of development proposed and as such is considered to be an unacceptable and unsustainable form of development in the countryside. The proposed development is considered to have a harmful impact on the character and enjoyment of the countryside and fails to meet the quality standards for development set by DP32 of the Local Development Framework and the tests set out in para 130 of the NPPF.
2. The proposal would cause harm to the amenity of the local community due to uncontrollable noise impacts from the operation of the function venue, including outside activity, amplified noise and noise and disturbance resulting from vehicles entering and leaving the site at unsociable hours. The proposed development would be contrary to the Policies CP1 and DP1 of the Local Development Framework.

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