YORKSHIRE DALES NATIONAL PARK AUTHORITY **ITEM 5.2**

Committee: Planning
Date: 30 January 2024

Report: Deferred item: Planning application for conversion of barn to form local occupancy dwelling/holiday let and installation of package treatment plant at Barn off Eshington Lane, West Burton, Leyburn (ref R/54/155D).

Purpose of the report

1. To provide further advice to Members on the validity and soundness of the reasons given for determining the above application in accordance with section 10 (b)(3) and (d)(ii) of the Planning Good Practice Guide.

Background

2. The Planning Good Practice Guide guidance applies to all Members when they are involved in the planning process. The aim of the guidance is to provide practical advice to Members when dealing with planning matters to ensure high standards of decision-making and reduce the risk of possible challenge.

3. The guidance includes the following procedure in cases where the Committee is minded make to make a decision contrary to officer recommendation:

   10.3 b) "Where a recorded vote shows an intention to determine an application contrary to policy or/and advice, the matter will stand deferred until the next meeting of the Committee unless there are no substantial doubts about the validity or soundness of the reasons (such to be advised by the Head of Development Management)."

   10.3 d) "Where an application has been deferred under para b) above:

   ii. the officers will provide further advice to the Committee as to whether it is possible to strengthen the validity and soundness of the reasons put forward and setting out appropriate conditions/planning obligations if the proposed decision were to approve the application."

4. At the meeting of the Planning Committee held on the 30th of May 2023, Members were minded to approve the application contrary to Officer Recommendation. A copy of the report from that meeting is **attached** (as an Appendix) for information.

5. The reasons given by Members for that decision were:

   (i) The proposed development would improve the condition of a redundant barn (which would otherwise continue to decay and eventually fall down) and bring it back into use as a local occupancy dwelling/holiday let.

   (ii) Support a young family who want to live and farm locally.

   (iii) There will be no curtilage, which limits residential use and landscape harm**.**

Assessment of reasons

6. The law (Section 38(6) of the Planning and Compulsory Purchase Act 2004) requires that decisions are taken in accordance with the adopted Development Plan unless material considerations indicate otherwise. There is a presumption in favour of the Development Plan (ie it is a plan - led system). The Development Plan is the starting point and must be followed unless there is good reason not to.

   The Good Practice Guide includes the following:

   10.3 "Officers will advise in their report which of the arguments put forward by an applicant, objector or supporter are considered capable of constituting material considerations. Often arguments of a personal kind relating to the circumstances of the applicant are put forward to support an application. Whilst these can be moving and persuasive, personal circumstances cannot outweigh other planning considerations except in the most exceptional circumstances.

   Nonetheless, there will be occasions where you may be minded to vote to approve an application contrary to your policies. In this case you must identify clear and substantiated reasons that are capable of constituting material planning considerations.

   The decision is ultimately the Committee's. However, it is imperative that the decision that is made identifies relevant planning considerations, and with detailed reasons set out to explain what might otherwise appear to the public to be inconsistency."

7. For this case, the Development Plan is the Yorkshire Dales Local Plan (2015-2030). Although the Local Plan needs to be read as a whole, the most relevant policies to this proposal are: strategic policies SP1(Sustainable development), SP2 (National Park Purposes), SP3 (Spatial Strategy) and SP4 (Development Quality). Also relevant are: L1 (Heritage Assets), L2 (Conversion of traditional buildings – acceptable uses) and L3 (Conversion of traditional buildings – building treatment).

Reason 1: The proposed development would improve the condition of a redundant barn (which would otherwise continue to decay and eventually fall down) and bring it back into use as a local occupancy dwelling/holiday let.

8. The important contribution that traditional farm buildings make to the landscape is recognised within the Local Plan and the strategy to ensure their retention is encompassed in Policy L2. This is a conservation orientated policy aimed at securing the long-term future use of buildings in a manner that conserves their intrinsic value, their character and appearance. In order to do this, a locational hierarchy has been agreed and formally adopted. This requires the most highly intensive uses such as dwelling houses and short stay holiday lets to be in the most sustainable location, within an existing settlement, group of buildings or farmsteads or in a roadside location.

9. This barn is not in a roadside location but located approx. 40m from the roadside. The National Park landscape contains approximately 6000 field barns. There are many barns in the National Park that are not roadside and are not served by sealed tracks. In formulating the Authority's policy towards barn conversions Members determined that only those barns in roadside locations or building groups were appropriate for conversion as to allow field barns such as this to be converted would result in an irreversible change to the intrinsic character of the National Park. This approach was found to be sound and in accordance with national planning policy by the Local Plan Inspector.

10. There are other options for the reuse of the barn with a less intensive use such as a camping barn and therefore see the retention and repair of the barn. However, the provision of an independent dwelling/self-contained holiday let, together with the associated parking area, curtilage and new pedestrian access is considered too intensive a use in this location.

Reason 2: Support for a young family who wish to live and farm locally.

11. The applicant has stated that he wishes to live and farm locally rather than travel from Leyburn, and the application proposals would facilitate that. These are personal circumstances that relate to the applicant, and were not submitted in support of the application rather presented directly to the Committee. As made clear in the Good Practice Guide, personal circumstances are only relevant in the most exceptional circumstances. The relevant case law on this point is from Great Portland Estates Limited v Westminster CC [1985]:

"Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. It would be inhuman pedantry to exclude from the control of our environment the human factor. The human factor is always present, of course indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should, be given direct effect as an exceptional

or special circumstance. But such circumstances, when they arise, fall to be considered not as a general rule but as exceptions to a general rule to be met in special cases. If a planning authority is to give effect to them, a specific case has to be made and the planning authority must give reasons for accepting it."

12. It is clear from the above that such circumstances must be exceptional or special and must therefore be considered only as an exception to the general rule. A specific case must be made out and the planning authority, if they accept it, must give reasons for doing so.

13. There are many farms within the National Park with similar issues, many also have small, remote field barns that have been within families for a long time. These reasons are not unique to this applicant and have been raised on numerous occasions by applicants seeking to justify proposals which are either harmful or contrary to policy. The circumstances are not exceptional nor are they compelling. Both national and local plan policy allow for new rural workers dwellings in the open countryside where it can be demonstrated that there is a functional need to live 'on the land' rather than a short distance away in a village or at the farm centre. This proposal does not include any convincing supporting information to justify a new dwelling on farming grounds.

14. Officers consider that it is not tenable for the Authority to justify granting permission for this reason. The applicant's desire to live and farm locally is not a compelling argument for allowing a proposal that would harm the visual quality and character of a protected landscape and undermine a longstanding and successful local plan policy.

Reason 3: There is no curtilage, which limits residential use and landscape harm.

15. The proposed curtilage is limited in size and confined to the front of the barn. It will be defined by a low, dry stone wall. Although small it is likely that the domestic needs of a young family occupying the barn would entail siting domestic paraphernalia such as oil tank/fuel storage, refuse and recycling bins, storage for chattels such as garden implements, bicycles, children's toys, garden chairs etc. Provision of such items is not unreasonable and be precluded by planning conditions, Members should therefore consider the proposal with such items in mind.

16. The Local Plan policy was developed with acceptance that converting a traditional building like a barn to a residential use will change the character of the site and have some impact on the character and visual quality of the area. This is the reason why the policy allows for road side buildings and buildings within an existing group to be converted, where there would not be an intrusion into the landscape, and not barns that are situated in the centre of fields like this barn.

17. This barn is located in a visually exposed and elevated position centrally within its field. Most of the significance of the barn is derived from its position within the historic landscape as part of a series of similar field barns. The barn has existing openings that would have been used for access and for forking hay in and out of the loft. These

openings may give a vague impression that the building ‘looks like a house’ however the character of the building is wholly agricultural. Were the barn to be converted to a modern house in this location the result would be a permanent and harmful change. This part of Bishopdale is aesthetically attractive, a beautiful pastoral landscape that is enjoyed by many visitors and residents. The landscape setting of the barn would be diminished significantly by the introduction of even a modest curtilage and through the intensive domestic use of the barn.

18. In the opinion of Officers the conversion and all the attendant development would be detrimental to the undeveloped pastoral character of locality and have a wholly negative visual impact on the landscape. In addition it could lead to pressure to extend the curtilage which would be difficult to resist given the residential conversion and use of the barn.

Conclusion

19. The Authority’s Local Plan strategy has been successful in granting permission for over 300 conversions whilst still conserving the inherent character and visual quality of the landscape. This has largely been achieved by ensuring that only buildings in road side locations or building groups are permitted for conversion. The proposed conversion of this building to a high intensity residential use and the use of the surrounding land as residential curtilage would have a singularly harmful effect on the character and appearance of this part of Bishopdale.

20. However an approval would not only allow a single harmful development but would significantly compromise the policy approach to the conversion of traditional buildings by allowing a conversion that does not meet any of the locational requirements of Policy L2 as the barn is 40m from the nearest road, is not served by an established track and would significantly harm the visual quality and pastoral character of the landscape.

21. For the reasons set out above Members are advised that reason 1 is a material consideration however it could be routinely applied and would significantly undermine the application of the policy setting out acceptable locations for such development. Reason 2 should not be considered to be material as it does not qualify as an ‘exceptional’ circumstance and reason 3 is not sound. To allow this proposal would result in a departure from adopted local plan policy without convincing reasons which would undermine the application of this important policy.

22. Members are reminded of the legal basis for determining planning applications (paragraph 6 of this report) and the reasonable expectation of the public that the Authority will follow its own policies and determine applications in a consistent manner.

RECOMMENDATION

23. It is recommended that permission be REFUSED for the reasons set out in the original report. However, if Members are minded to grant permission, it is recommended that permission should be granted subject to a Section 106 Agreement to secure local occupancy and holiday let restrictions and conditions based on the following:
    - Time limit
    - Plans condition
    - Approval of materials
    - Removal of permitted development rights
    - Control over external lighting
    - Approval of landscaping
    - Provision of wildlife enhancement measures
    - Highways requirements

Matthew Lappin
Senior Planning Officer

Date 04 December 2023
Background documents: Committee report 14 November 2023, application ref R/54/155D see Appendix

Appendix

YORKSHIRE DALES NATIONAL PARK AUTHORITY

Committee:	Planning	**Parish:**	Burton cum Walden
Date:	14 November 2023	**Officer:**	Matthew Lappin
Applicant:	Mr & Mrs Bell	**Application No:**	R/54/155D
Site Address:	Barn off Eshington Lane, West Burton, Leyburn, DL8 4JT		
Proposal:	Full planning permission for conversion of barn to form local occupancy dwelling/holiday let and installation of package treatment plant		



REASON FOR COMMITTEE CONSIDERATION

1. This application is reported to Committee for the following reason: The Parish Council recommendation is contrary to the decision which the Head of Development Management proposes to take.

APPLICATION SITE

2. The application site is a traditional stone field barn located on rising land within an open field to the north of Eshington Lane, a narrow rough surfaced highway in open countryside to the north of Thoralby. The barn stands in the centre of a field and is built into the bank side so that the ground floor is below ground level at the rear. The walls stand roofless with some original timbers still in place. A modern agricultural building and gravel yard have recently been constructed immediately adjoining the lane and close to the application site. There is also a recently constructed pathway to the barn from the gravel yard. The barn and agricultural building are in the same ownership.

3. The barn is one of a number that are dispersed in fields along this hillside. These barns are visible in a number of views: from Eshington Lane, from public rights of way in the area (2097/14 and 2083/11), from the B6160 near West Burton, and from the Open Access Land at Burton Moor and Dove Scar. The site is also visible in more general landscape views along this part of Bishopdale.

PROPOSAL

4. Full planning permission is sought for the conversion of the barn to form a 3 bedroom local occupancy dwelling/holiday let together with the installation of package treatment plant. The proposal would utilise existing openings with no new openings proposed. A new stone slate roof would be constructed together with a replacement first floor to include a staircase and internal walls. A modest curtilage is proposed to the front and part of the rear of the barn. Parking is to be provided on the existing gravel yard adjoining the modern agricultural building next to the lane. Pedestrian access only would be provided from the parking area to the barn. Although no details are given it is proposed that utilities would be under-grounded without the need for overhead lines.

5. Except for the omission of a small extension the application proposals are similar to two previous applications for conversion of the barn to a dwelling, both of which have been refused.

RELEVANT PLANNING HISTORY

6. The following applications are relevant:

   R/54/155A: Full planning permission for erection of portal frame general purpose agricultural building. Approved 15/08/2018

   R/54/155B: full planning permission for conversion of existing detached stone barn into three bedroom dwelling. Refused 19/03/2018

R/54/155C: full planning permission for conversion of detached stone barn to create 1 No. three bedroom dwelling and installation of package treatment plant. Refused 12/06/20

CONSULTATIONS

7. The comments of statutory and non-statutory consultees are summarized below:

CEHO RDC North Yorkshire Council
No comments received.

Clerk to Burton-cum-Walden PC
"This planning application was considered by Burton-cum-Walden Parish Council at a meeting yesterday evening where it was agreed that the Council wished to support the application. The applicant, Mr Michael Bell, attended the meeting and reassured the Council that its concerns regarding problems with the provision of services such as water, electricity and telephone connection had been overcome satisfactorily. Mr Bell also mentioned that this traditional, but now partly derelict, barn would not be significantly altered but would in fact be restored to its original appearance. Issues with access were also considered, and the Council was again assured that vehicular access would be restricted to the area of the new building in the field near the roadside of Eshington Lane with only a small footpath up to the barn.

In supporting this application, the Council also took into account Mr Bell's personal circumstances, in that he would be moving his young family back into the Dales, something that we understand is now an aim of the National Park Authority. The Council felt it would also be better for the environment by reducing the numerous daily runs from Leyburn that Mr Bell needs to make to attend to his sheep, and also thereby reduce his overheads."

Fire Officer - Richmondshire
No objection/observation to the proposed development. Further comments will be made in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority.

Highways - Richmondshire
No objections subject to condition on provision of parking and turning.

PUBLIC RESPONSES

Neighbour/interested parties' responses received: 1

8. The application was advertised by site notice which expired on 26.07.2023. One response was received from the Ramblers commenting that nearby footpaths should be kept open at all times.

ASSESSMENT

Key Issues:

- Planning policy
- Conversion of traditional building
- Landscape and visual impact
- Highways and parking
- Equality Act

PLANNING POLICY

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on Local Planning Authorities to determine planning applications in accordance with the development plan unless there are material reasons to do otherwise. The development plan for this area is the adopted Yorkshire Dales National Park Local Plan (the development plan). The most relevant policies are:

    SP1: Sustainable development
    SP4: Development Quality
    L1: Heritage Assets
    L2: Conversion of Traditional Buildings – acceptable uses
    L3: Conversion of Traditional Buildings – building treatments

10. The National Planning Policy Framework (NPPF 2023) sets out the purpose of the planning system: to contribute to the achievement of sustainable development. It directs planning authorities to avoid the development of isolated homes in the countryside unless certain circumstances apply. The circumstances listed include - "the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets" and "the development would re-use redundant or disused buildings and enhance its immediate setting."

CONVERSION OF TRADITIONAL BUILDING

11. Despite its condition the barn could be considered a non-designated heritage asset for the purposes of Policy L1. It is thought that the barn dates from the early nineteenth century and is typical of traditional barns in Bishopdale. The structure has some historical and aesthetic significance which is lessened by the lack of a roof giving it a ruinous appearance. The barn is not of equivalent significance to a designated asset.

12. Policy L2 is a conservation-orientated based policy aimed at securing the long term future of traditional buildings in a manner that conserves their intrinsic value. The policy allows the conversion of traditional buildings to local occupancy or holiday let dwellings within existing settlements and building groups or in suitable roadside locations. These locational criteria are a key part of the policy necessary to ensure that buildings that are isolated in the landscape are not converted to houses. This planned approach has allowed about 300 conversions to be permitted without significant harm to the visual quality and character of the landscape.

13. This barn is not within a settlement or a building group. For a building to be considered ‘roadside’ it or its immediate curtilage must physically adjoin the boundary of a sealed metalled road maintainable by the Highway Authority or a sealed metalled private road that connects to a road maintainable by the Highway Authority. Buildings that do not physically adjoin but are in close proximity to such routes or that are served by an established (since at least July 2014) unsealed road or track, are considered subject to the impact on landscape.

14. The barn is elevated above the closest sealed metalled road, Eshington Lane, which is about 40m from its boundary and the barn has the appearance of being positioned centrally within the field. As such it cannot be considered to be in close proximity to the boundary of Eshington

Lane. The barn does not have any curtilage and is not served by an established unsealed road or track and therefore falls outside of the type of barn listed in the Local Plan as suitable for the most intensive uses, including permanent residential accommodation.

15. The barn falls in the most sensitive category of barns that are deliberately excluded from high intensity uses such as use as a dwelling. Policy L2 advises that these locations will be incapable of absorbing the visual impacts associated with the development in terms of physical alterations to the building, the provision of new infrastructure, and the higher level of disturbance associated with these uses.

16. Due to the inevitably high landscape harm that would likely occur from developing barns in these locations, only the least intensive uses are likely to be appropriate such as a camping barn or for agricultural purposes.

17. The field barn in question is at an elevated level and is positioned centrally within a field away from the roadside. The building is not served by an established private road or track and therefore the proposal is in direct conflict with policy L2.

LANDSCAPE AND VISUAL IMPACT

18. The barn is located in a visually exposed and elevated position centrally within its field. Most of the significance of the barn is derived from its position within the historic landscape as part of a series of similar field barns. This part of Bishopdale is aesthetically attractive, a beautiful pastoral landscape that is enjoyed by many visitors and residents. The landscape setting of the barn would be diminished significantly by this proposal due to changes to the appearance of the barn, the land around it and from light emanating from the building and site.

19. The field barn is a stand-alone building and its being built into the hill side is an integral part of its character. Although only a small curtilage is proposed to the front and part of the rear of the barn there would inevitably be pressure to store domestic paraphernalia such as oil tank/fuel storage, refuse and recycling bins, storage for chattels such as garden implements, bicycles, children's toys, garden chairs etc. This would be detrimental to the character of locality and have a negative visual impact on the landscape.

20. In addition the introduction of parked vehicles in the gravel yard adjoining the modern agricultural building would add further prominence to the domestic use of the barn in a predominantly rural location.

HIGHWAYS AND PARKING

21. Eshington Lane is an attractive narrow traditional Dales lane that is well-used by walkers. The Highway Authority has previously objected to applications, but on this occasion has no objection subject to a condition securing and retaining parking provision. However, Eshington Lane itself is a very narrow highway that for most of its length is only wide enough for one vehicle at a time. The proposed residential use of the barn would intensify use of the lane and increase incidences of vehicles having to reverse back to a passing point to allow other traffic to pass. It is considered that this would be a potential risk to highway safety.

22. In addition, the proposed parking area for the barn conversion would obstruct access to the agricultural building previously granted approval and now constructed(R/54/155A). This would mean that the parking area would potentially need to be even larger than that proposed with the resulting intrusion into the field.

EQUALITY ACT

23. The Authority has a duty under s.149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant characteristic and persons who do not share it. The relevant characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

24. It is considered that there are no overt reasons why this proposal would affect anyone with the protected characteristics such that the application should be permitted or refused on equality grounds.

CONCLUSION

25. This part of Bishopdale is highly attractive, highly valued but also highly vulnerable to inappropriate development. The National Planning Policy Framework (2023) requires the Authority to give 'great weight' to conserving and enhancing National Park landscape and scenic beauty which should have 'the highest status of protection' in planning decisions.

26. It is considered that the proposal would have a significant detrimental effect on the character and appearance of the site and the wider landscape. This is not considered to be a location that is suitable for a permanently occupied dwelling. Although the building is semi-derelict the proposed conversion, and all the work it entails, would not conserve the limited conservation value of the building. In this instance it is considered that any modest landscape benefit gained through securing the long term future of this building would be greatly outweighed by the landscape harm that would occur from its conversion to an intensive residential use.

27. It is considered that the proposal conflicts directly with policies L2, SP1, SP2, SP3 and SP4 of the Yorkshire Dales Local Plan. The proposal would not be sustainable development and conflicts with the guidance in the National Planning Policy Framework (2023) [particularly para.176].

RECOMMENDATION

28. It is recommended that permission be REFUSED for the following reasons:

1. In the opinion of the Local Planning Authority, the proposal would result in significant landscape harm by reason of the prominence of the site on an open hillside that is publicly visible in close range and landscape views, and arising from the alterations to the building, creation of a curtilage, parking area and alterations to the access. As such the proposal is contrary to policies SP1, SP2, SP4, L2, and L3 of the Yorkshire Dales Local Plan (2015-2030), the statutory purposes of the National Park and guidance contained in the National Planning Policy Framework (2023) [particularly para. 176].

2. In the opinion of the Local Planning Authority, the proposal would result in the creation of a new dwelling in the open countryside in conflict with the spatial strategy of the National Park and detrimental to the character, appearance, and natural beauty of the National Park landscape. As such the proposal would be contrary to policies SP1, SP2, SP3, SP4 and L2 of the Yorkshire Dales Local Plan (2015-2030), the statutory purposes of the National Park and guidance contained in the National Planning Policy Framework (2023) [particularly para. 176].