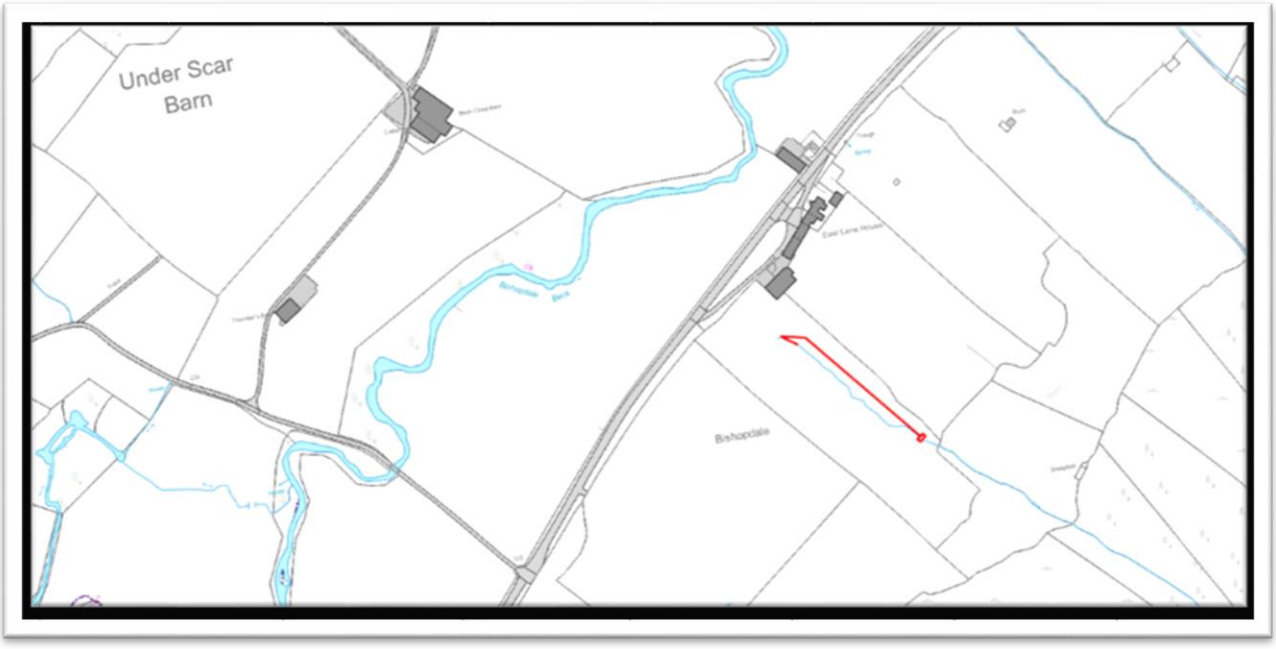
**YORKSHIRE DALES NATIONAL PARK AUTHORITY**

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| **Committee:** | Planning | **Parish:** | Newbiggin |
| **Date:** | 12 March 2024 | **Officer:** | Emma Heron |
| **Applicant:** | Mr & Mrs Robert & Helen Brown | **Application No:** | R/57/45E |
| **Site Address:** | land adjacent to East Lane Farm Buildings, Bishopdale, Leyburn, DL8 3TF | | |
| **Proposal:** | Full planning permission for the installation of approximately 140m of 450mm twin wall HDPE pipe and the construction of a stone pipe intake (retrospective) | | |

**PURPOSE OF REPORT**

1. That Members APPROVE planning permission for the above development in accordance with the recommendations below.



## REASON FOR COMMITTEE CONSIDERATION

2. This application is reported to Committee for the following reason: the application has been called to Committee by Mrs Peacock and the public interest reason given is: “The ghyll has been filled in and this effects the landscape. This should be looked at more closely with even a site visit so members can decide whether the application does not affect the landscape of Bishopdale. The application should also be looked at on environmental reasons. Has the wildlife been affected?”

## APPLICATION SITE

3. The site is the field to the rear of East Lane Farm buildings. This is approximately 1 mile south from the Street Head Inn at Newbiggin. The building group comprises two dwellings, a traditional barn and two cubicle buildings all set back from the B6160, along a small ‘layby’ that appears to follow a former road layout prior to the highway straightening.

4. To the rear of the southernmost cubicle building the field rises steeply upwards and is separated into two sections by a narrow tree-lined gill. The gill is generally dry but prior to the work taking place, flowed during periods of heavier rain, when the springs higher up Bishopdale issue floodwater down the dale sides.

5. It is understood from the applicant that prior to the work taking place, the culvert below the gill could no longer take the volume of water from the stream, and it would flow down the field into the farm buildings at the bottom, and also out into the road, by-passing the existing surface water drain. The cubicle shed floor flowed with water during flooding events.

## PROPOSAL

6. The retrospective application is for the installation of approximately 140m of 450mm twin wall HDPE pipe and the construction of a stone pipe intake.

7. At the top of the field, a stone-lined trough has been formed adjacent to the gill, serving as the water intake. From here, an HDPE pipe sits within a (now covered), trench. The pipe runs below ground adjacent to the lower portion of the gill for 140 metres, before joining into the existing culverted system, which is piped into the existing highway surface water drainage system.

8. The above ground work is limited to the stone pipe intake at the head of the field.

## RELEVANT PLANNING HISTORY

9. None relevant to this application.

## CONSULTATIONS

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

**Natural England**
No comments received

**Aysgarth & District PC**
No comments received

**NYC - Drainage & Floods (LLFA)**
The LLFA has no comments to make regarding the planning requirements of installing 140m of pipe to a culvert.

However, the works would have required a Land Drainage Consent, due to the alteration of flow to a watercourse. Therefore, the LLFA will be in contact with the Applicant to discuss the culverting of a watercourse from a Land Drainage perspective.

Recommendation: The LLFA has no further comments to make at this time, and do not object to the planning matters within this application.

**Highways - Richmondshire**
There are no local highway authority objections to the proposed development.

**Wildlife Conservation Officer**
Initially objected to the proposal on the grounds that it amounts to the infilling of a natural gill, resulting in a reduction in biodiversity value, and with no mitigatory or compensatory proposals, contrary to policy W1 of the Yorkshire Dales Local Plan (2015-2030).

Subsequently, following a site visit in Fenruary 2024:
From the site visit it is clear that there is a steep-sided watercourse incised into the land. This has not been in-filled contrary to initial reports. It is clear that the watercourse cannot flow all of the time or even for lengthy periods because there are substantial trees growing in the stream bed. There is material (e.g. old pipes, wire, farm waste) that has been deposited into the watercourse, but it is difficult to determine exactly how much was dumped by previous owners or tenants and how much was deposited when earth was spread over the top of buried piping/culverting most recently. The watercourse would benefit from removal of as much of this rubbish as it is possible to achieve, without disturbing all the moved earth once again. There is no strong evidence that the disturbed ground supported species-rich grassland – most of the habitat around is agriculturally improved and it is likely that the habitat was no better or worse than that nearby. Bearing this in mind I would have no objection to the bare ground being re-seeded with a standard agricultural mix, if the objective is to 'green up' the area quickly.

**PUBLIC RESPONSES**

**Public responses received at the time of writing: 6.**

11. The application was advertised by site notice on 15th December 2023. Six objections have been received from five separate households. The objections are summarised as follows:

- The retrospective nature bypasses crucial stages in responsible development including a prior assessment of changes to a natural watercourse and wildlife habitats
- Impact on biodiversity
- The justification is unclear
- No prior consideration of alternative solutions
- Environmental impact of infilling a natural gill
- Downstream flooding effects due to an increased flow of water
- Making the gill redundant means it will undergo changes that will prevent is coming back into future use

**ASSESSMENT**

**Key Issues:**

- Principle of development
- Landscape and visual impact
- Nature Recovery
- Sustainability
- Parish Council comments
- Equality Act

PRINCIPLE OF DEVELOPMENT

12. 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:

    SP2: National Park purposes
    CC2: Flood Risk
    W1: Wildlife Sites, Species and Networks
    W2: Biodiversity Enhancement

13. Policy SP2 sets out the statutory purposes of the National Park, of: conserving and enhancing natural beauty, wildlife and cultural heritage; and promoting opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. Paragraph 182 of the National Planning Policy Framework (2023) makes clear that great weight should be given to conserving and enhancing the scenic and natural beauty in National Parks.

14. Policy CC2 aims to steer development away from areas most at risk of flooding, and to manage flood risk such that development does not contribute to downstream flooding and, where possible, reduces existing run-off. Paragraph 165 of the NPPF (2023) requires inappropriate development in areas at risk of flooding to be avoided by directing development away from areas at highest risk, and where development is necessary, it should be made safe for its lifetime without increasing flood risk

elsewhere. Paragraph 173 states that in determining applications, local planning authorities should ensure that flood risk is not increased elsewhere.

15. Policy W1 aims to protect the most important habitats and species, halt the decline in biodiversity, and establish more resilient ecological networks, whilst Policy W2 requires further biodiversity enhancement opportunities.

SUSTAINABILITY

16. Prior to the work taking place, surface water during heavy rainfall events bypassed the pre-existing culvert system by flowing from the gill down the surface of the field into the farm buildings and also onto the road. Flooding of the building limits its use, as it cannot then be used for such things as storing feed and housing livestock. Whilst the length of time that this problem existed is unclear, the development was carried out by the applicant as a solution to the flooding and aims to direct flood water away from areas at risk of flooding. It appears that the work has been successful, and water now flows into the highway surface water drains without causing surface water flooding.

17. Whilst the design solution has worked, it has been carried out without the benefit of Land Drainage Consent having been sought from the Lead Local Flood Authority, and without the benefit of planning permission. It has also extended the amount of straight-line culverting; by-passing the lower part of a gill that would likely have assisted in 'slowing the flow' of surface water into the existing piped drainage system.

18. Nonetheless the application has been assessed on its merits by the Lead Local Flood Authority (North Yorkshire Council), and they consider the work to be of a minor nature such that there are no objections or comments. Additionally, the Highway Authority (also North Yorkshire Council and who are responsible for maintaining the road drainage system that the culvert connects into), has no objections to the proposal. Furthermore, the applicant has carried out significant tree planting (3.6 hectares), in the vicinity of the spring source, as part of a much wider land management scheme. This in itself is highly likely to contribute to attenuating surface water, particularly when the woodland matures.

19. Given the minor scope of the work affecting only the lower portion of a larger gill, and the technical consultee responses, it is considered that refusal of planning permission on flood risks grounds would not be sustainable in this case. It is also noted that the Lead Local Flood Authority will be in contact with the applicant in order to consider the culverting of the watercourse under Land Drainage legislation.

NATURE RECOVERY

20. The gill itself and the trees on either side have not been altered or directly affected by the culverting, as the works are confined to the adjacent agricultural field which is of low ecological value.

21. A condition of any planning permission would be to remove the spoil, and to re-seed the affected part of the field as a landscaping requirement. Subject to this requirement, the proposal accords with policies W1 and W2 of the Yorkshire Dales Local Plan (2015-2030).

LANDSCAPE AND VISUAL IMPACT

22. The above-ground work, comprising the small stone trough and pipe intake, is very small in scale and is not visible from public vantage points. Any visual impact is therefore negligible. The works were undertaken during winter months, which have frequently been wet. For this reason, the field appears very muddy, and the spoil heaps are visible. This is a temporary visual impact relating to the construction of the development, and the making good and re-seeding of the site will be required by planning condition. The proposal accords with policy SP4 of the Yorkshire Dales Local Plan (2015-2030).

OTHER MATTERS

23. Separately to this application, it has been noted that excavation has been carried out adjacent to the agricultural building mentioned within this report, to form a levelled yard area. This work needs permission and the applicants have been informed.

PARISH COUNCIL COMMENTS

24. No comments have been received from the Parish Council.

EQUALITY ACT

25. 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.

26. 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

27. Having regard to flood risk, the development directs water away from the East Lane building group and in terms of slowing the flow of water, it is minor in scope to the extent that there are no objections from the Highway Authority and Lead Local Flood Authority (LLFA). It is also noted that the LLFA will consider the development under separate legislation. Should any amendments to the culvert be required as a result, then an assessment will be made whether such work may be development requiring planning permission.

28. The proposal has a negligible landscape impact and does not impact adversely on biodiversity. Conditions are recommended in respect of land reinstatement.

## RECOMMENDATION

29. It is recommended that permission is GRANTED subject to conditions including the following:
    - Retained in accordance with the approved plans.
    - Landscaping condition requiring re-seeding works, and spoil removal within a specified timescale.