

North York Moors National Park Authority

Scarborough Borough Council (South) Parish: East Ayton	App No. NYM/2019/0697/FL
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Proposal: variation of condition 2 (material amendment), 9, 11 & 12 of planning approval NYM/2018/0255/FL to allow retention of windows and doors as installed and painted/stained together with additional rooflights

Location: 24 Castlegate, East Ayton

Applicant: Mr Thomas Herring, 24 Castlegate, East Ayton, Scarborough, YO13 9EJ

Date for Decision: 06 December 2019

Grid Ref: 499033 485036

Director of Planning's Recommendation

Approval subject to the following conditions:

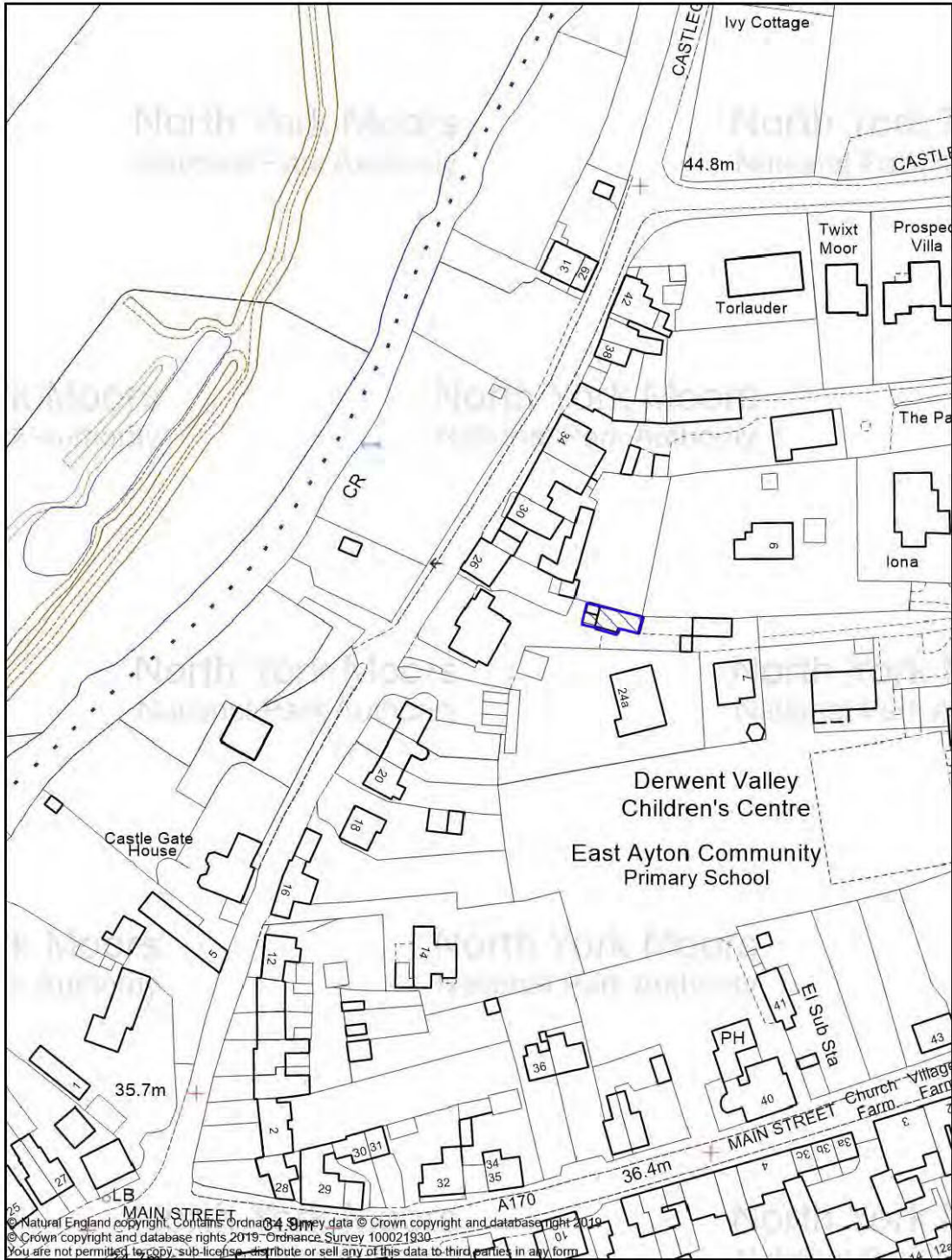
1. TIME00 The removal of the timber lintels to unit 1 and the store along with the painting of the fascia boards and the concrete lintels to unit 1 and the store black shall be completed within 6 months of the date of this decision and shall thereafter be so maintained.
2. TIME00 The external doors to units 1 and 2 shall be painted within 6 months of the date of this decision, a colour to be first agreed in writing within the Local Planning Authority and shall thereafter be so maintained.
3. PLAN01 Strict Accordance With the Plans/Specifications or Minor Variations
4. RSUO00 The units of annexe accommodation hereby approved shall not be occupied as separate independent dwellings and shall remain ancillary to the use of the main dwelling known as 24 Castlegate, East Ayton. The units of annexe accommodation shall form and shall remain as part of the curtilage of this main dwelling as a single planning unit, shall not be sold or leased separately from the main dwelling, shall at all times be managed and controlled by the occupier of the main dwelling and shall be used only for members of the family (or fostered children children/young adults) of the occupier of the main dwelling.
5. WPDR03 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1, Class A (or any order revoking and re-enacting that Order), no extensions or alterations to the annexe accommodation hereby permitted shall take place without a further grant of planning permission being obtained from the Local Planning Authority.
6. MATS60 Windows and Doors - Timber
7. HWAY00 No supported living annexe unit shall be occupied until the related parking facilities have been constructed in accordance with the submitted drawing. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.



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National Park
Authority

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Scale: 1:1250



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Consultations

Parish – No objections

Highways – No objections

Environmental Health Officer –

Natural England – No comment

Forestry Commission –

Advertisement/Site Notice Expiry Date – 26 November 2019

Others – Mrs Linda Corrie, 40 Castlegate, East Ayton

R B Potter, 32 Castlegate, East Ayton

J Dunn and A Philips, 26 Castlegate, East Ayton

D & L Anderson, 24A Castlegate, East Ayton

C Batty, 22 Castlegate, East Ayton

Mr A Crawshaw, 9 Moor Lane, East Ayton

Rachel Crawshaw, 9 Moor Lane, East Ayton

Petition from the Resident Group comprising 11 Members from Castlegate and Moor Lane, East Ayton

Object to the application for the following reasons:

- Unbelievable that the applicant is even being given the opportunity to alter any of the conditions which were imposed by the NYMNPA when passing this contentious development which has been a constant cause for concern to the neighbours;
- There is no valid reason or justification for these major alterations, carried out against the strict conditions of the planning permission and without any attempt to inform the NYMNPA in order to receive prior approval and therefore should not be allowed under a retrospective application;
- The applicant assumes that now one of the units is occupied the NYMNPA will not make him rectify the unauthorised alterations and remove the unauthorised rooflights;
- This was not a 'mistake' of any kind, it was a deliberate, very purposeful and selfish attempt by the applicant to bypass and overrule the NYMNPA and entirely their responsibility;
- The applicant expects the NYMNPA to pass the removal of or vary the conditions due to his own decision to deviate and vary said conditions but which he blames on his agent, his builder and Building Control;
- What is the point of a Planning Department and an Enforcement Officer if they do not have the willingness or power to rigorously enforce NYMNPA rules and conditions? It sends out a message that everyone can do as they please;
- This development was passed subject to work proceeding in strict accordance with the conditions imposed upon the applicant by the NYMNPA – residents have had to accept this position, and so should the applicant;
- The NYMNPA considered the conditions necessary in order to comply with NYMNPA Core Policies and to ensure that the appearance of the development is compatible with the character of the locality and safeguard the special qualities of the National Park. These should be implemented and adhered to and not to be varied on the whim of the builder or applicant;

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Others continued

- Given the applicant is a former Chartered Builder he should have known of the importance of complying with the stated conditions and believe it unlikely he was unaware the windows were being installed without approval. Any advice from Building Control contrary to the approved drawings should have been followed up with the NYMNPA;
- No attempt was made to apply for minor variations prior to carrying out the work and the amendments implemented are major digressions from the conditions willfully carried out in the belief that they would not be noticed. It is the applicants responsibility to carry out the work in accordance with the planning conditions;
- The approved plans indicate a batten type stable door and the barn, prior to conversion, had stable doors. These should be carried through in the new conversion to be in keeping with the original building;
- The justification regarding draught proofing and glazing are a poor justification for a solid Oak door - if the applicant asked the builder to change the specification he also had time to ask the NYMNPA for permission to do so;
- Lack of information on drawings and urgency on the part of the builder are not valid reasons for deviating from conditions imposed by the NYMNPA;
- The applicant openly states that it was always his intention to install the two rear rooflights yet did not, at any time, disclose this fact to the Authority or his neighbours. These were omitted from the submitted drawings as the applicant feared that whilst he could get away with three roof lights, he would not get away with five;
- Why was a north elevation not requested by the NYMNPA when its omission was raised by the neighbours?
- The rooflights to the rear elevation are in extremely close proximity to the boundary of 32 Castlegate and directly overlook the whole garden area of this property. These unauthorised windows should be removed and all other stipulated conditions should be fully complied with;
- It should also be noted that the occupancy of the unit is in breach of Condition 13 which states that 'No supported living annexe shall be occupied until the related parking facilities have been constructed in accordance with the submitted drawing' yet these have not been constructed in accordance with the approved drawings;
- The applicant has installed a barrier along the central approach to the units which restricts access, parking and turning areas to the applicants own property and also the neighbours, causing vehicles to reverse out onto Castlegate or use neighbours drive for turning;
- Maintain that prior to the commencement the applicant and the NYMNPA failed in their duty to fulfil Condition 5 in that the approved Structural Report does not satisfy the requirement of a Full Structural Survey and Condition Report;
- The resultant building does not reflect the desired effect envisaged by the NYMNPA and is not compatible with the character of the locality and fails to safeguard the special qualities of the National Park;
- The failure by the Authority to enforce all conditions relevant to this application sets a dangerous precedent in enforcing all future Planning Applications within the jurisdiction of the NYMNPA;
- The purpose of Conditions 2, 9, 10 and 11 are specifically imposed by the Authority so as to ensure that the development is carried out in strict accordance with the wishes of the Authority. Regardless of whom the applicant thinks is to blame, regardless of his opinion that the changes are an improvement, regardless of whether they can be seen by others and regardless of the costs involved it is the duty of the Authority to stand up, be accountable and enforce the conditions upon which this contentious development was passed;

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Others continued

- What gives this applicant the right to choose which, if any, of the conditions imposed he should adhere to?
- The applicant lives on site, inspected the building work on a daily basis over a nine month period and as such had both opportunity and adequate time to consult the Authority on any and all variations of conditions;
- The residents affected deserve to be protected by the Authority against a developer who has shown complete disregard and contempt for the Planning Authority's legislation in the belief that they will be unable or unwilling to take any action against him;
- Why is the Planning Authority considering alterations to the original application which contained so many problems?
- Why isn't the Enforcement Officer insisting that the rear windows be removed, as you have not given permission for them to be installed?
- We also have concerns as to the units being used before they have received the relevant certification as fit for purpose as it would appear this has been the case;
- The handling of the original application and the subsequent amendments has been extremely poor – the building borders on my boundary and overlooks my property yet I was not consulted on the original application.

Mrs Tamzin Sykes, 18 Morley Drive, West Ayton – Supports the application for the following reasons:

- The windows and doors used in this sympathetic conversion do not detract from the overall look of the property and are not visible from the public thoroughfare, nor from the neighbouring buildings;
- The very worthy and important use to which the building is being put must be a material consideration. There is a young person in residence in the building that, as a care-leaver, is being afforded a valuable chance to transition to independent living with support from an experienced and caring foster family.

Background

This application relates to the detached outbuilding to the rear of 24 Castlegate, East Ayton, a modern, detached dormer bungalow occupying a slightly elevated position on the east of the road to the north of the village centre. The outbuilding originally comprised a pair of former stables constructed in facing brick and stone under a corrugated sheeted roof with a smaller store attached to the west gable used as a kennel with an enclosed dog run. Members may recall granting planning permission in October 2018 for the conversion and modest extension of the outbuilding to provide two units of annexe accommodation to be used as supported living accommodation for young adults leaving foster care, along with a domestic store. Each unit was designed to provide an open plan living space with an ensuite wet room. The ownership of the units was to be retained by the applicant and be occupied as annexe accommodation to the main house where the applicant cares for a number of foster children.

The applicant has sought to discharge the various planning conditions attached to that consent and the development is almost complete with one of the units now occupied. However the work has not been carried out in accordance with the approved plans and prior to any approval by the Authority of the joinery details for the proposed windows and doors. Therefore this application seeks approval for the conversion of the outbuilding as completed including the windows and doors as installed and the addition of 2 no. conservation rooflights to the north roof slope which were not shown on the original approved plans.

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Background continued

The land to the rear of the property is predominantly hard surfaced in tarmac, except for a small grassed area to the east of the outbuildings, and provides parking and turning for the applicant in addition to a right of access to two neighbouring properties, 24A and 26 Castlegate. To the front of the property and on the opposite side of Castlegate lies a substantial garden.

Main Issues

Policy

The relevant policies of the Core Strategy and Development Policies Document in the determination of this application are considered to be Core Policy A (Delivering National Park Purposes and Sustainable Development), Core Policy B (Spatial Strategy), Core Policy G (Landscape, Design and Historic Assets), Core Policy J (Housing), Development Policy 3 (Design), Development Policy 4 (Conservation Areas) and Development Policy 19 (Householder Development).

Core Policy A seeks to further the National Park purposes and duty by conserving and enhancing the Park's special qualities with priority being given to providing a scale of development and level of activity in locations which will support the character and function of individual settlements and not detract from the quality of life of local residents.

Core Policy B seeks to improve the sustainability of local communities by supporting, improving and consolidating existing services and facilities, providing additional housing and employment opportunities within settlements and enabling alternative modes of travel to the private car in accordance with the settlement hierarchy. East Ayton is identified in the settlement hierarchy as a 'service village' where open market and affordable housing is supported.

Core Policy G seeks to ensure that the landscape, historic assets and cultural heritage of the National Park are conserved and enhanced, with particular protection being given to those elements which contribute to the character and setting of Conservation Areas. It encourages the re-use of buildings which make a positive contribution to the landscape and character of the National Park.

Core Policy J seeks to ensure the provision of a mixture of housing types and tenure to maintain the vitality of local communities, consolidate support for services and facilities and support the delivery of more affordable housing. This is to be achieved through locating all open market housing, including new build and converted units in the main built up area of the Local Service Centre of Helmsley and the Service Villages, such as West and East Ayton.

Development Policy 3 states that in order to maintain and enhance the distinctive character of the National Park, development will only be permitted where, amongst other criteria, a high standard of design detailing is used whether traditional or contemporary, which reflects or complements that of the local vernacular, and that the scale, height, massing, proportion, form, size, materials and design features of the proposal are compatible with surrounding buildings.

Development Policy 4 seeks to ensure that development within or adjacent to a Conservation Area preserves or enhances the character and appearance or setting of the area.

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Main Issues continued

Development Policy 19 only supports development within the domestic curtilage where the scale, height, form, position and design does not detract from the character and form of the original dwelling nor harm the amenities of adjoining occupiers by reason of noise and disturbance, smell or other adverse impact. It requires proposals for annexe accommodation to be ancillary to the main dwelling in terms of scale and specification and to remain under the control of the occupiers of the main dwelling.

Principle of Development

The principle of the conversion of this modest outbuilding into two small bedsit-type units to provide supported living accommodation for young adults leaving foster care has been established by the granting of planning permission in October 2018.

The property lies within the main built up area of East Ayton where Core Policy J supports the provision of open market housing through the conversion of existing buildings. However it was considered that given the small scale of the outbuilding and the restricted nature of the site, the conversion of the outbuilding into a separate open market dwelling(s) would not result in satisfactory levels of amenity for both the occupiers of the existing property or the future occupants of the proposed units given the nature of the shared access and amenity space. The proposal to convert the outbuilding into two small bedsit-type units to provide supported living accommodation for young adults leaving foster care was considered to be acceptable in principle as the accommodation would remain in the same ownership as the host property and the applicants would have responsibility for the young adults occupying the accommodation. It was considered that this was very similar to the provision of annexe accommodation which Development Policy 19 supports in principle.

Design and Impact on the Conservation Area

The property lies just outside but immediately adjacent to the West and East Ayton Conservation Area. Planning permission for the conversion of the former stable building was originally granted on the basis that the proposed scheme of conversion retained much of the simple, functional character of the structure. However whilst the conversion of the building appears to have been carried out to a high standard, it is not in accordance with the approved drawings and there is concern that some of the finer detailing gives the building an overly domestic appearance such that some of the original character of the stable block has been lost.

The windows and doors have been installed without the Authority first approving the joinery details, or the paint colour/finished treatment contrary to Conditions 9 and 11. Neither are the windows or doors in accordance with the approved plans. In addition two rooflights have been inserted in the northern roof slope which were not shown on the approved plans. Whilst it is not unusual for amendments to be made during the course of a development, a formal amendment is normally sought first. In this case given the good communication between the Case Officer and the applicant, it is disappointing that works have proceeded without the necessary approvals.

However after a further site inspection and careful assessment of the proposed amendments, taking into account the location of the outbuilding within the rear garden to the host property and surrounded by residential development, it is considered that subject to a number of minor amendments which would improve the overall appearance of the building and restore some of its character, the retention of the development as built is acceptable and would not harm the setting of the adjacent Conservation Area. Whilst flush fitting casements would be preferable it

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Main Issues continued

is considered that the storm proof windows installed do not harm the appearance of the building and there would be no significant improvement to the character or appearance of the building if the Authority insisted on their replacement with flush fitting casements. However Officers have requested the removal of the projecting, white painted box lintels above the door and window to unit 1, and the store; the painting of the fascia boards black to reduce their prominence; and the painting of the doors to units 1 and 2 a dark, muted colour as the walnut stain is not typical of outbuildings and detracts from the attractive cedar cladding which is untreated. The applicant has agreed to these works and it is recommended that any planning permission is conditioned on these works being carried out within six months.

Impact on Residential Amenity

With regard to the unauthorised rooflights installed on the northern roof slope, the outbuilding is a single storey structure and the rooflights are at a similar height to those to the front roof slope, that is, at least 2.6 metres above floor level and are designed to provide additional light rather than any outlook or view from the units. As such they will not afford any overlooking of the neighbouring garden to the north and their retention is considered acceptable.

Conclusion

The principle of the conversion of this traditional outbuilding into annexe accommodation to be used in association with the main dwelling has been established by the granting of planning permission in October 2018. There has been no significant change in circumstances about the site or changes in planning policy which would otherwise lead the Authority to a different decision. As such the proposal accords in principle with Core Policies B and J and Development Policy 19.

The scheme of conversion has been carried out to a high standard albeit not in accordance with the approved plans. So as to retain the simple, functional character of the former stable building a number of minor amendments have been requested and agreed with the applicant and these can be a conditional requirement of any planning permission. Subject to these amendments it is considered that the development makes good use of the existing building, retaining its character and appearance and preserving the setting of the adjacent Conservation Area and as such complies with Core Policy G and Development Policies 3, 4 and 19.

Whilst Officers understand the frustrations expressed by third parties that the applicant has not carried out the development in accordance with the approved plans, he has submitted this retrospective planning application to rectify matters. Therefore so long as the completed development accords with the adopted policies of the Core Strategy and Development Policies Document and no harm is occurring as a result of the discrepancies, the Authority has no alternative but to grant planning permission. It would be acting unreasonably if it refused planning permission for a development which was otherwise acceptable in planning terms. Therefore in view of the above the proposal is considered to comply with the relevant policies of the Core Strategy and Development Policies Document and approval is recommended.

Draft Local Plan

It is considered that the proposal accords with Strategic Policy B (Spatial Strategy), Strategic Policy I (The Historic Environment), Strategic Policy M (Housing), Policy CO7 (Housing in Larger Villages) and Policy CO18 (Residential Annexes) although only some weight can be attached to these policies following the recent Local Plan examination.

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Contribution to Management Plan Objectives

Approval is considered likely to help meet Policy C10 which seeks to promote high quality design and development which will conserve and enhance the built heritage of the National Park.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

The Local Planning Authority has acted positively in determining this application by assessing the scheme against the Development Plan and other material considerations and subsequently granting planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.