

# North York Moors National Park Authority

District/Borough: Ryedale District  
Parish: Lockton

Application No. NYM/2019/0600/FL

**Proposal:** improvement works to entrance and car parking area, restoration of footpath and replacement interpretation

**Location:** nature reserve west of A169 and south of Ellerbeck

**Decision Date:** 14 November 2019  
**Extended to:** 29 November 2019

## Consultations

**Parish -**

**Highways -** No objection.

**Amended Plans -** No objection.

**Natural England -** Request for further information.

**Amended Plans -** No objection.

**Site Notice Expiry Date -** 05 November 2019.

## Director of Planning's Recommendation

**Approval** subject to the following conditions:

1. **Standard Three Year Commencement Date**

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

2. **Strict Accordance With the Documentation Submitted or Minor Variations - Document No.s Specified**

The development hereby permitted shall not be carried out other than in strict accordance with the following documents:

<b>Document Description</b>	<b>Document No.</b>	<b>Date Received</b>
Location Plan	N/A	23 August 2019
Site Plan Area 1	N/A	19 September 2019
Site Plan Area 2	N/A	19 September 2019
Site Plan Area 3 (part superseded)	N/A	19 September 2019
Fence Details	N/A	19 September 2019
Path Surface Detail Area 2	N/A	23 August 2019
Drain Detail Area 2	N/A	23 August 2019
Fen Bog footpath restoration – Method Statement	N/A	26 November 2019
E-mail from Kate Yates, YWT	“NYM/2019/0600/FL Nature Reserve south of Ellerbeck”	01 November 2019

or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority.

### Reasons for Conditions

- To ensure compliance with Sections 91 to 94 of the Town and Country Planning Act 1990 as amended.
- For the avoidance of doubt and to ensure that the details of the development comply with the provisions of NYM Core Policy A and NYM Development Policy 3, which seek to conserve and enhance the special qualities of the NYM National Park.

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**Background**

Fen Bog Nature Reserve is located to the west of the main A169 road (Pickering to Whitby) close to Ellerbeck Bridge. The nature reserve is accessible from the main road via an informal track with small parking area, with the main site entrance set approximately 100m back from the road. The northern part of the reserve occupies the land between the road and North Yorkshire Moors Railway Line where it then reduces in width and extends to the south, abutting the line of the North Yorkshire Moors Railway.

There is currently one interpretation panel to the left of the entrance gate and a small 'welcome' sign to the right of the gate. There is no signage at the main vehicular access from the road. The existing footpaths through the site are in poor condition, suffering from water runoff which in turn puts pressure on the nature reserve as users of the rights of way step off the right of way avoiding wet or poor quality surfaces.

This application seeks full planning permission for a number of works in order to improve access, understanding and the condition of the nature reserve and associated Special Area of Conservation and Site Special Scientific Interest.

As originally submitted, the application proposed the following:

1. Works to the entrance including; removal of existing metal bollards, installation of pedestrian gate, installation of timber fencing, installation of a donation post, replacement interpretation and new 'welcome' sign at carpark entrance.
2. Restoration of footpath including; regrade and resurfacing of approximately 65m of sloping footpath to 1.5m wide including water bars, and measures to shed surface water and installation of replacement interpretation panel (existing panel has already been removed due to poor condition).
3. Sleeper boardwalks up to 40m constructed in short sections over the wettest areas of permissive path and replacement of the interpretation panel.

Following concerns expressed by Natural England and the Authority's Ecologist, the proposed boardwalk(s) have been removed from the application.

**Main Issues**

The relevant policies contained within the NYM Core Strategy and Development Policy Document to consider with this application are Core Policy A (Delivering National Park Purposes and Sustainable Development) and Core Policy C (Natural Environment, Biodiversity and Geodiversity).

CPA seeks to further the National Park purposes and duty by encouraging a more sustainable future for the park and its communities whilst conserving and enhancing the Park's special qualities. Priority will be given to development that will not have an unacceptable impact on the wider landscape, quiet enjoyment of the Park or quality of life of residents or visitors; development in locations and of a scale which supports the character and function of settlements; maintaining and enhancing the natural environment; conserving and enhancing the landscape, settlement, building features and historic assets of landscape character areas; applying sustainable design and energy use; provision of a choice of housing; strengthening and diversifying the rural economy and enabling access to services, facilities, jobs whilst minimising environmental impacts of transport.

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CPC seeks to ensure that the quality and diversity of the natural environment is conserved and enhanced. Conditions for biodiversity will be maintained and improved and important geodiversity assets will be protected. Protected sites and species will be afforded the highest level of protection. All developments, projects and activities will be expected to: provide protection to legally protected sites and species; maintain and enhance conditions for priority habitats and species identified in the NYM Local Biodiversity Action Plan; maximise opportunities for enhancement of ecological or geological assets and mitigate against impacts through habitat creation, restoration or enhancement.

The Authority's Ecologist assessed the application, confirming that the proposed works had been designed to resolve existing issues which negatively affect the special features of the varied protected habitats found here and can be considered necessary for the management of the designated sites in order to support the recovery or maintenance of habitats to good condition. However, if approved, it is considered necessary to include a condition to require the submission of a Construction Method Statement for the works to be approved by the Authority prior to works commencing. In addition, work area 3 should be assessed by a suitably qualified ecologist prior to works commencing to identify any flora of particular value to the protected habitats that it is not possible to avoid covering with essential sections of boardwalk and specimens should be translocated as necessary to appropriate sites in the immediate vicinity that will not be affected.

Natural England also identified that as originally submitted, the application could have potential significant effects on the North York Moors Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA) and Fen Bog SAC and Newtondale SSSI. Consequently, further information was requested in order to determine the significance of these impacts and the scope for mitigation.

The applicant made direct contact with Natural England and following further discussions/advice, confirmation was provided that the proposed boardwalk was to be removed from the scheme. The Authority's Ecologist was also involved in these discussions and following the removal of the boardwalk from the scheme, confirmed to Planning Officers that the previously recommended conditions were no longer required.

The Authority's Ecologist has forwarded a response from Natural England following this revision and the submission of further information in relation to method statements and habitats surveys. Natural England has commented that habitat losses show that they are not European features nor SSSI features, therefore there is no loss to a notified feature. The method statement is satisfactory (although a note about biosecurity may be beneficial) and it is confirmed that Natural England has no objection to this proposal.

Since that response, Natural England has formally responded to the re-consultation letter and advised that the amended documents show that there are no habitat losses for European features nor SSSI features, therefore there is no loss to a notified feature. The method statement demonstrates that the mitigation is sufficient to prevent any damage to any notified features. For these reasons, Natural England has no objection to the proposal. The Authority is advised that an Appropriate Assessment (AA) as part of the Habitat Regulations Assessment is required but with the updated information, the AA can be concise (the assessment should be appropriate to the scale and impacts from the proposal). As part of their response, Natural England recommended that the AA should conclude there will be no adverse effect on the integrity of the site.



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The Ecologist has also confirmed that she is satisfied that that the works will have no negative impact on the site and will result in improved management of the reserve. For the purposes of the Habitat Regulations in relation to the European Designated sites I assert that;

- The works are not necessary for the management of a European Designated Site
- The works will have no likely significant effect on any European Designated Site.

The Highway Authority has confirmed there are no objections to the proposal and no other representations have been received. In view of the above, the amended proposal is considered to be acceptable and in accordance with the above policies.

**Draft Local Plan**

The relevant Draft Local Plan Policies would be Strategic Policy A (Achieving National Park Purposes and Sustainable Development) and Strategic Policy E (The Natural Environment). At this stage, no weight can be attached to either policy.

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

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.