

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Mr Winn-Darley

Against: Refusal of planning permission for alterations to and change of use of 2 no. buildings formerly used in connection with mineral extraction to agricultural use together with construction of extensions to one of the buildings

Location: Land at Spaunton Quarry, Kirkbymoorside

LPA Ref : NYM/2018/0787/FL
PINS Ref : APP/W9500/W/20/324365

Costs Rebuttal by Local Planning Authority For Hearing Appeal - 21st April 2020

Awards of Costs.

The online NPPG explains that costs may be awarded on appeal where either; a party has behaved unreasonably and where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonableness may be either procedural or substantive relating to the merits of the appeal. Examples include; having to utilise expert witnesses to provide detailed technical advice.

Basis of Applicants request for Costs.

- That no proper assessment was undertaken of the applicant's comprehensive Landscape and Visual assessment evidence and that the Authority's assertions on impact were not supported by objective analysis by the Councils [sic]Landscape Officer or by the case officer.
- Furthermore that the applicant's agricultural justification was not seriously questioned by the Authority's agricultural consultant.
- That the Authority should have accepted that a house owned by the applicant at the entrance to the quarry should have been accepted and not resulted in the reason for refusal regarding likely pressure for a dwelling at the site.

LPA Comments in Respect of Landscape Analysis.

The National Park Authority is not a Council and it does not have a designated Landscape officer. This National Park was designated in 1952, the statutory purposes of which were: To conserve and enhance the natural beauty, wildlife, and cultural heritage of the Park, and to Promote opportunities for the enjoyment and understanding of the special qualities of the Park by the public. Where there is an irreconcilable conflict between the two purposes the first purpose takes precedence.

Under the 1995 Environment Act the accompanying statutory 'duty' was strengthened to ensure that in undertaking the two purposes the Authority should seek to foster the economic and social well-being of local communities. In this context it can be seen that 'Landscape impact' is not simply one of many competing material planning considerations for a National Park Authority Planning team, it is a primary consideration and as such all Planning officers are trained in proportionate assessing of landscape impacts. This reflects NPPF 2019 which states that National Parks have the highest status of protection in relation to scenic beauty and that the statutory purposes should be given great weight in planning decisions.

The applicant's Landscape and Visual Assessment has been accorded less weight than the applicants/agents would wish. This is because the descriptions of the visual baseline set out in chapter 4 all refer to the existing quarry buildings and the improvements that the development would deliver from this baseline position. Whilst that is a reasonable approach for most sites and development where existing buildings can be assumed to lawful, this is a mineral site where the buildings should have been removed as part of the agreement to the original development (they are not lawful and are subject of a Breach of Condition Notice which is not mentioned/referenced in the report). As such the Assessment should have compared the visual baseline of the sites without the existing detractor quarry buildings and the proposed agricultural buildings. Given the proposed agricultural buildings have a gross floor area of some 728 square metres approx. and height of up to 12m, such a large range of industrialised buildings in a National Park setting where, in LVIA terms, the sensitivity to change and potential magnitude of change would be classed as high, such scale and nature buildings could not conceivably be analysed as described: *"will strengthen and improve the quality and character of the site"*as set out in the applicant's LVIA at para 5.2.3 if a baseline without buildings had been utilised. This is considered to represent a weakness in the assessment.

A second weakness is considered to be that whilst the Common Land designation is noted as a constraint in Chapter 3 describing the landscape baseline, its relevance is stated to be for commoner rights (grazing etc.) and public access, whilst not recognising it as a historic landscape which an LVIA would be expected to assess impact upon.

LPA Comments in Respect of Agricultural Consultants.

The applicant's commissioned their agricultural consultant's report as part of the good practice suite of documents for an agricultural application, it was not commissioned for the appeal and thus no additional appeal costs were incurred.

The agricultural justification is not part of the reason for refusal; rather the nub of the agricultural argument is that the agricultural need does not outweigh the environmental harm in the overall 'Planning Balance'. Such a position reflects the designated purposes of National Parks to prioritise landscape protection as is the statutory requirement.

LPA Comments in Respect of Pressure for additional Residential Dwelling.

This is one of the issues to be addressed during the Hearing. The LPA does not accept that ownership of a dwelling 300m from the intended livestock buildings which are not within 'sight and sound' of the dwelling and where there is both pedestrian

and vehicular access to the agricultural buildings without having to pass by the dwelling is so 'blatantly and obviously' acceptable that the LPA cannot question its effectiveness and conclude that there is likely to be pressure for a better located dwelling from a farming perspective. The lack of any Unilateral Undertaking to tie the dwelling to a person working at the proposed new steading further weakens the case for accepting the dwelling as an obvious solution to the farm management dwelling issue.