

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

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

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Mr M Hill, For North York Moors National Park Authority.

1.0 Introduction

1.1 Spaunton Quarry is a former limestone quarry, now closed and approximately 90+% restored back to agriculture/woodland. The last remaining section of the quarry to be restored lies at the southern end of the large quarry site where six semi-derelict former quarry buildings remain to be demolished and the land beneath/around restored.

1.2 This appeal relates to two of those existing semi derelict former quarry buildings (see image below) located close to the main vehicular entrance to the quarry where the site widens out from the long access road onto the A170 road. The proposals firstly, envisage recladding the taller of the buildings with dark green steel plastisol sheeting to roof and walls and inserting a roller shutter door to create a store for agricultural machinery and sheep fodder. Secondly to clad the lower twin roof building with steel sheeting to walls and roof with low stone walling and adding a 20m by 10m extension of concrete block and timber boarded walls and steel sheet roof to form an over wintering sheep shed.



1.3 This area, along with much of the quarry is also classified as 'Common Land' as part of the much larger Spaunton Common. That designation for the quarry part of the Common was 'suspended' whilst the quarry was working/being restored, the landowner believes the open access to the common land is now restored following the cessation of active quarrying / restoration works.

1.4 The crux of the refusal of planning permission to retain the two buildings with a repanelled finish and extensions was based on conflict with the overall restoration vision.

2.0 Appeal Site and the Surrounding Area

2.1 The quarry is located some 2.5 km east of Kirkbymoorside with road access off the A170. The layout of the quarry can be described as comprising three distinct areas, a northern basin section and associated tree planted slopes was the first area to be restored, a middle basin area and a southern basin section in two parts which was the last to be levelled and is now being naturally vegetated. All the buildings awaiting demolition lie in the southern section which is closest to the quarry link road which leads onto the A170.

2.2 The whole quarry is approximately 93 ha with a valley/gorge type topography and is surrounded by woodland belts. A stream, Catter Beck runs through the site north-south. A public footpath crosses the site northeast - south west.

2.3 The application site lies in one of the two southern parts, and comprises a relatively open section of quarry floor previously used for covered storage of quarry equipment.

3.0 Relevant Site History

3.1 It is understood that there has been winning and working of limestone i.e. quarrying in some form carried out in the immediate locality for in excess of 160 years. In terms of key aspects of the relevant site history; in 1992 the owner signed a S106 Agreement to commit to progressive restoration and landscaping with a replacement restoration scheme together with eventual removal of the quarry buildings. In 1997 following a decision by the Planning Committee to allow further extraction at the quarry including retention of quarry jobs, the decision was called in by the SoS and considered before a Planning Inspector at a Public Inquiry.

3.2 In brief the Inspector concluded that continued limestone extraction in the context of other non-National Park limestone supplies was not exceptional and in the public interest (main limbs of 'major Development Test') and refused permission to keep the quarry open. In 2003, a Review of Mineral Permission (ROMP) of the extant planning conditions, resulted in issuing of new planning conditions for the quarry to reflect the appeal decision. The most notable new conditions being a requirement to cease winning and working of minerals by December 2007 and implementation of a restoration masterplan which included demolition of quarry buildings.

3.3 In 2007 planning permission was granted for a small 5 unit holiday cabin development on a small plateau at the southern part of the restored quarry in line extant tourism policy. A material commencement was made to keep the planning application 'alive' pending a Common Land swop being approved.

3.4 Pre-application discussions for an alternative restoration (with additional modest leisure & renewables as well as agriculture & woodland) have been going on for many years alongside progressive restoration. In 2015, the applicant undertook a public consultation in preparation for the submission of an application to the Planning Inspectorate (PINS – Common land) to swop areas of Common Land with private land. In terms of land area affected, the swop was intended to provide for more than the 0.7ha for the 2007 permission and 0.94ha for an additional caravan site proposal (subject of a linked appeal) , indeed the actual consultation proposal envisages a swop of 19.2 ha private land for Common Land which is 0.05ha greater than that which the Inclosure application seeks to inclose. Officers are not aware of the status/result of that process.

3.5 In 2017, when restoration progress stalled, a 'breach of condition' type Enforcement Notice was issued by the Authority to require the final restoration works. In 2018, a proposal for a substantial leisure scheme at the quarry for: a time-share dwellings/hotel/ club/ leisure/sports facility village was presented at a Members Pre-application Presentation notwithstanding Officers earlier advice that the scheme represented "major development" and was contrary to policy and unlikely to be supported. That scheme appears to have been dropped.

3.6 Later in 2018, Officers commenced legal proceedings for a prosecution for failure to comply with the 'breach of condition notice'. The submission of the linked appeals for agricultural development and caravan site has resulted in Officers pausing with the prosecution arrangements until these appeals have been determined.

4.0 Proposed Development and the Decision

4.1 In the application documentation, the submitted justification explains that Spaunton Quarry forms a small part of the much larger Spaunton Estate which encompasses over

2600 hectares (7000 acres). Officers are aware that the bulk of the Estate lies to the north of Appleton le Moors village and a smaller part lies to the south of the village and within it Spaunton quarry lies at the southern tip of the Estate. Three full time staff are employed to manage the habitat and look after the estates flock of moor sheep. As the quarry has been used for stone extraction for 160 years, the applicant considers there is scope to continue an economic use in the form of a new green field farm steading for overwintering of sheep and storage of machinery that would free up existing Estate farm accommodation.

4.2 The applicants explained that there are economic benefits from keeping lambs longer and taking the moorland flock off the moors late October/November and transferred into sheds to be fed during January, Feb, March, April then fed in quarry/turned out onto the Moor mid May. The Estate have overwintered the flock both at a moorland farm in Rosedale and down at the owners Buttercrambe estate near York and considers the proposal would be much more effective for a number of reasons including inadequate existing buildings at and difficult roads at Rosedale. There would be further land management benefits from less grazing of the moors and from managing the grassland at the quarry.

4.3 The pair of buildings the subject of the appeal are: a 12m wide, 16m deep and 12m high portal steel building with single roller shutter front door together with a multi-unit building of concrete block and steel framework building of approx. 28m by 12m x 9m dimensions which would be extended with a 20m x 10m extension in matching profile sheeting finish.

4.4 The Authority commissioned an independent agricultural review of the justification which confirmed there would be agricultural benefits to the applicants if the development was approved albeit the functionality and suitability of the buildings are not overly suited to the proposal'.

4.5 The 'Planning Balance' assessed by members at the planning committee was a tension between effectively introducing a new greenfield farm steading at the entrance to the former quarry which would inevitably involve large buildings, open storage, paraphernalia and activity levels which would perpetuate the commercial and industrial character and appearance of the former use compared to the restoration vision of turning this scared site back into an attractive semi natural form that could be enjoyed by the local community and increase public access and wildlife enhancement. In a national park context, the latter end use and associated character and appearance was deemed to be in the public interest.

4.6 The reason for refusal was :

1. The site forms the greatest remaining part of the final outstanding restoration of this former large limestone quarry. The retention of the former two quarry buildings, albeit modified and extended, would have an undermining effect and seriously dilute the character and appearance of the ongoing restoration of the former quarry to a more natural form and thus detract from the Authority's approved Landscape Restoration Plan which sets a vision for an attractive landform and landscape post quarrying. The buildings are not of architectural or historic importance and do not make a positive contribution to the landscape and character of the National Park. As such their retention through conversion would be contrary to the provisions of Core Policy A, and Development Policy 8 of the NYM Core Strategy which, amongst other things, seek to retain traditional buildings which make an important contribution to the quality and character of the landscape, together with seeking to ensure development conserves and enhances the wider landscape and Special Qualities of the National Park, and avoids damage to the landscape.

2. The Local Planning Authority does not consider that the benefits to agriculture set out

in the application justification outweigh the harm that would be likely to accrue from the significant harm to the Landscape Restoration Plan vision for the site which involves open access for the public to enjoy an attractive semi-natural landscape and the undermining of the social/cultural/heritage value of the common land in the locality. As such the proposals would be contrary to the provisions of Core Policy A of the NYM Core Strategy which, amongst other things, seeks to maintain and enhance the natural environment and landscape and not detract from the quiet enjoyment, peace and tranquillity of the Park. Furthermore the proposal would conflict with Development Policy 12 which seeks to ensure the character and appearance of the Park is maintained by ensuring new farm buildings are related physically and functionally to existing buildings associated with the business. Insufficient justification has been submitted to demonstrate why buildings could not be located at Spaunton Estate's existing moor farms thus avoiding the creation of livestock and agricultural storage buildings in this isolated location away from any existing agricultural buildings.

3. The proposed development involves the creation of agricultural buildings for use by livestock with welfare and husbandry requirements which are likely to lead to pressure for a farm workers dwelling(s) which would be likely to have a harmful an urbanising impact on the locality contrary to the provisions of NYM Core policy A and Development Policy 12.

5.0 Planning Policy and Guidance

5.1 This section covers both the statutory Development Plan and the general implications of the location of the appeal site within a National Park.

5.2 At the time of decision, the Development Plan for the area formally consisted of the North York Moors Core Strategy and Development Plan Document (CSDPD) which was adopted by the NPA on 13 November 2008. (The Development Plan also consists of the Whitby Business Park Area Action Plan (2014) and the Helmsley Local Plan (2015), though these do not contain policies relevant to this appeal). The most relevant policies in the determination of this appeal are considered to be:

- Core Policy A seeks to deliver Park purposes and to direct acceptable development to appropriate locations, amongst things it seeks to conserve and enhance the natural environment.
- Furthermore NYM Core Policy 12 recognises that this National Park is not characterised by remote field barns, rather agricultural buildings are clustered with their respective farm houses. This gives rise to a generally uncluttered landscape. The policy seeks to ensure new agricultural buildings are sited adjacent to existing farm houses/buildings/business base unless there are exceptional circumstances related to agricultural necessity.

5.3 The National Planning Policy Framework - The Government's commitment to the protection of National Parks is clearly set out in the NPPF (February 2019). Paragraph 172 says that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. It goes on to advise that the conservation of cultural heritage is an important consideration and should be given great weight in National Parks.

5.4 Furthermore, whilst at the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 172 also confirms that the scale and extent of development within these designated areas should be limited. It is clear therefore that the NPPF expects a

different approach to be taken in National Parks both to plan making and decision taking compared with other areas outside of designated National Parks.

5.5 The North York Moors National Park was formally designated in 1952 under the National Parks and Access to the Countryside Act 1949. The two key purposes are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks and to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public. When it appears that there is conflict between these purposes the 'Sandford principle' confirms that greater weight should be given to the first purpose, the conservation of the landscape (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: 'National Parks' DoE, 11 September 1996.

6.0 Local Planning Authority's Case

6.1 Spaunton Quarry is the largest quarry in the National Park and for many years the limestone extraction has scarred the landscape in this part of the National Park. Following a 'called in' planning Inquiry in 1997, the Inspector decided that there were plenty of Limestone sources outwith National Parks and refused the appeal to set in place a process for the closure and restoration of the large quarry to a more natural landform that would also eventually benefit the local community and visitors from open access onto the common land parts of the quarry.

6.2 Restoration has been slow but the quarry is more than 90% restored and there remain several buildings to be demolished to finalise the restoration plan. The two buildings the subject of this application are part of the several buildings awaiting demolition to finalise the restoration and secure a substantial environmental and public benefit. Over the last twenty years the Authority has fairly consistently sought the eventual restoration of the quarry. The key issue is considered to be whether there is an agricultural benefit that would outweigh the environmental and public benefits of not completing the restoration by allowing the retention of the buildings in a modified and extended form and the associated paraphernalia and activity associated with a new greenfield agricultural steading to allow the applicant to keep lambs for longer on the estate before sale rather than relocate to other land available to the Estate.

6.3 Core Policy A seeks to deliver Park purposes and to direct acceptable development to appropriate locations. Officers have no doubt that establishing a new farm steading in the quarry would undermine and dilute the returning of the site back to a more natural form, character and appearance. Whilst the applicants have set out how the two new buildings could build on the current arrangements to keep lambs longer by not transferring the lambs to land near York or by investing and improving housing at Rosedale it is considered that the environmental and public harm from the buildings significantly outweigh the applicant's agricultural benefits and refusal of the appeal would result in greater public benefit.

6.4 Furthermore NYM Core Policy 12 recognises that this National Park is not characterised by remote field barns, rather agricultural buildings are clustered with their respective farm houses. This gives rise to a generally uncluttered landscape. The policy seeks to ensure new agricultural buildings are sited adjacent to existing farm houses/buildings/business base unless there are exceptional circumstances.. The applicant has set out a case why they consider exceptional circumstances apply however the Authority considers the case overstated and whilst all hill farms are far from ideal with often inadequate buildings and tight access these are capable of being overcome. There are social and environmental benefits associated with keeping existing rural and in-village farms working. The creation of a whole new steading would result in additional paraphernalia and activity levels which would harm the character and appearance of this newly restored part of the quarry and be likely to lead

to pressure for future agricultural buildings, feed bins and dwellings to deal with associated animal welfare and husbandry issues. A dwelling at the A170 entrance would not be 'sight and sound' of the agricultural dwellings and would be far from optimal, which is the reason most new farm workers dwellings are sought within sight and sound of their livestock buildings.

6.5 The application site is registered common land which has social, cultural and heritage value which are set out at length in the CL162 group comments. Common land is a material planning consideration. The agricultural benefits are not considered to outweigh the potential resulting loss of common land albeit the Secretary of State does have the power to grant a land swap if considered appropriate. Such land swaps are subject to their own regime of control.

6.6 Other confidential issues including: future of farming subsidies, off-site development opportunities, continuity of lamb supply and benefits of a dedicated collection point do outweigh the harm set out above.

6.7 In summary, the agricultural and land management benefit justifications are not considered sufficient to outweigh the significant harm to the landscape character and appearance from preventing the full restoration of this large former quarry back to a more natural landscape form with associated low levels of activity which would result in an environmental, public access and nature conservation benefit.

7.0 Draft - Matters of Common Ground.

See appendix 2.

8.0 Conclusion

Therefore, the NPA respectfully requests that the Inspector dismisses the appeal. However, should the Inspector be mindful to allow the appeal, a list of conditions which the NPA would wish to see imposed are attached at Appendix 1.

APPENDIX 1

Conditions & Informatives.

Standard Three Year Commencement Date

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

Strict Accordance With the Plans/Specifications or Minor Variations

The development hereby approved shall be only carried out in strict accordance with the detailed specifications and plans (including Flood Risk Assessment) comprised in the application hereby approved or in accordance with any minor variation thereof that may be approved by the Local Planning Authority.

No Outside Storage

No storage of materials, machinery, vehicles, waste or other items shall take place outside the building(s) on the site without the prior written agreement of the Local Planning Authority.

External Lighting – Submit Details

No external lighting shall be installed in the development hereby permitted until details of lighting have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.

External finishes to be Approved

No work shall commence on the cladding of the walls of the development hereby permitted until details of the metal and wood cladding, including samples if so required by the Local Planning Authority, to be used for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The finishes used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.

Building to be Removed if Not Used for Agriculture

If the use of the building for the purposes of agriculture within the unit permanently ceases within five years from the date on which the development was substantially completed, the building shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before development took place unless the Local Planning Authority has otherwise agreed in writing or unless planning permission for change of use of the building to a purpose other than agriculture has been approved.

INFORMATIVES

Registered Village Green or Common Land

The applicant is advised that the proposals affect Registered Village Green and/or Common Land and accurate information can be obtained from County Searches Information. For general advice please see DEFRA 'Common Land Consents policy' dated November 2015.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/20/ 3246365
NYM/2018/0787/FL

No works should be carried out on them until such time as consent has been granted under the Commons Act 2006. The applicant should contact:

The Planning Inspectorate
Commons and Greens Protection Team
Room 4/05
2 The Square
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Floodrisk

The applicant's attention is drawn to the Environment Agency's advice on the ability of users to access/egress buildings during a flood.

Bats

All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 39(1) of the Conservation (Natural Habitats etc.) Regulations 1994. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and Natural England contacted on 0300 060 3900 for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and applies to whoever carries out the work. All contractors on site should be made aware of this requirement and given information to contact Natural England or the Bat Conservation Trust national helpline on 0845 1300 228.

Appendix 2

AGREED DESCRIPTION OF DEVELOPMENT

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.

PRINCIPLE MATTERS

1. It is common ground that the independent agricultural consultant appointed by the Local Planning Authority to assess the agricultural justification for the scheme has advised that: whilst the buildings were not overly suited to the proposal, there would be agricultural benefit gained with the provision of agricultural buildings in this location. The report assumed the buildings would be used to house lambs over the winter period for fattening rather than selling them as stores which is currently happening. However, application documentation contradicts itself on stating that ewes will be kept in the shed over winter and also lambed indoors.
2. It is common ground that the restoration plan, which has driven progressive restoration over the last decade with six unattractive buildings remaining to be removed from the quarry, is based on future agricultural use of the land. Whilst the restoration envisages agricultural use it is important to note the majority of the quarry restoration will be Common Land with Countryside Rights of Way (CROW ACT 2000) right to roam across much of the quarry benefiting public access and wildlife conservation alongside agriculture.
3. It is common ground that the appellants are in the process of making a land swap with the common land. Planning and Common land regulatory regimes are separate and they can result in different outcomes.

TECHNICAL DETAILS

4. It is common ground that there are no highway objections to the scheme from the Highway Authority.
5. It is common ground that the site is considered to be accessible with acceptable connections to the public road network.
6. It is common ground that there are no drainage matters which would prohibit planning permission being granted.
7. It is common ground that there are no known heritage assets within the site. Common Land plot CL162 Spaunton Common is recognised as having heritage/cultural/social value due to its common land history dating back to 1085AD and thus represents a historic landscape.
8. It is common ground that the site has a limited ecological value with no signs of protected species found during the applicants September survey (PEA). However

it is worth noting that UK Priority species including Brown Hare and Hedgehog were noted in the PEA as likely to be present, and there are records of two Priority butterfly species, Dingy Skipper and Pearl bordered Fritillary, in the locality which could be considered as present and would not have been picked up during the PEA due to the timing of the site survey.

9. There is no existing dwelling within 'sight and sound' to serve the agricultural buildings for animal welfare purposes.

OTHER NON-ISSUES

10. It is common ground that none of the following considerations provides grounds for dismissal of the appeal:

- Noise
- Residential amenity, outlook or privacy
- Highway safety, parking provision or vehicle trip generation
- Pollution or contamination
- Construction impact
- Archaeology
- Loss of agricultural land.

9. The parties will seek to agree a list of planning conditions.

Signed:

Dated:

For and on behalf of the appellant

Signed:

Dated:

For and on behalf of the North York Moors National Park Authority