

## **Pre-Hearing Note – 5 October 2020**

**APPEAL REFS:** APP/W9500/W/20/3246365 & APP/W9500/W/19/3243322

### **Land at Spaunton Quarry, Kirkbymoorside YO6 6NF**

**Appellant:** George Winn Darley

**Local Planning Authority:** North York Moors National Park Authority (NPA)

### Background

1. A one-day hearing relating to the above appeal will take place at 10:00am on **16 October 2020**. It will be conducted by Kevin Savage BA MPlan MRTPI who is the Inspector appointed by the Secretary of State to determine the appeals. Whilst it is expected that the hearing will be finished within one day, it would be helpful if the parties ensured that they were also available on Monday 19 October 2020 in case proceedings overrun.
2. For ease of reference, the Inspector intends to refer to the appeals as follows:  
  
APP/W9500/W/20/3246365 - Appeal A/"the agricultural appeal"  
APP/W9500/W/19/3243322 - Appeal B/"the leisure appeal"
3. Due to the Covid-19 pandemic and the subsequent need to observe social distancing, the hearing will be run as a digital event in accordance with the Written Ministerial Statement (WMS) of 13 May 2020<sup>1</sup>. The WMS expresses an expectation that everyone involved in the planning process will engage in digital events proactively.
4. The purpose of this pre-hearing note is to explain how the event will operate in a fair, open and transparent way and what should be done to ensure it runs smoothly.
5. The parties are advised to note and respond in particular to the requests for information set out at points 13, 14, 15, 17, 19, 20 and 22.

### Information Technology (IT)

6. The event will take place on Microsoft Teams. This is a free digital conference and meetings application that can be accessed by downloading the app or via your web browser. It operates in a similar way to other platforms such as WhatsApp, Skype and Zoom. If you have an internet enabled computer, you will be able to access and speak at the event over the internet using a video/audio link. The Inspector is likely to ask participants to keep their microphone off when not speaking and use the 'hands up' function when they

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<sup>1</sup><https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-05-13/HCWS235/>

want to speak. The Inspector will ensure that all participants have had a chance to say what they wanted before moving onto the next agenda item.

7. If you do not have an internet connection, or you do not feel confident or able to use a digital device but you have a telephone with a keypad, you can instead join by telephone on a landline, although your provider is likely to charge for the call which would be to an 020 number.
8. Digital events are a new format and therefore all the parties will be unfamiliar with the process and the technology. We therefore ask for your patience and understanding during the event. Should you have any questions about IT, please contact the case officer.

#### Format

9. The event will operate in much the same way as a normal hearing, although there will clearly need to be some differences to ensure it takes place smoothly. You can be assured though that all participants will be given a chance to address the points raised by the Inspector.
10. The Inspector will start the event in the usual way by running through several preliminary matters. A preliminary agenda is at the end of this note, but it could well change. The Inspector will issue a final version shortly before the event.
11. The hearing will still be run as a structured discussion with the Inspector asking a series of questions in respect of the main issues. All parties who so wish will be given an opportunity to speak.
12. As all parties will likely be working from screens, the Inspector will ensure there are regular breaks. These will probably take place between discussions on the main issues and are likely to be every hour or so.
13. To aid preparation, the parties are asked to provide a list of participants on their side in advance of the hearing (no later than Monday 12 October please).

#### Drawings, Other Documents and Late Evidence

14. In respect of Appeal A, reference is made to an agricultural appraisal conducted by Savills for the appellant, and to an independent review of this document carried out for the NPA. However, neither document appears to be before the Inspector. The parties are asked to forward these documents urgently for the Inspector's attention.
15. With respect to appeal B (the leisure appeal) the Inspector notes the submission by the appellant of three drawings at the appeal stage:

GMV-455-06-01; GMV- 455-06-02 and GMV-455-06-03.

The NPA is asked to indicate its position on whether these drawings should form part of the Inspector's considerations. This may form part of the agreed Statement of Common Ground (see further below), either as a matter agreed or in dispute.

There is also an amended set of plans received by the NPA on 3 June 2019. Clarification is requested from the NPA as to whether it was these plans that formed the basis of the Authority's decision.

16. It is not anticipated that there will be any need for additional documents to be handed up during the hearing. You should review your cases promptly to ensure that is the case. The parties are reminded of the ramifications in terms of any new or late evidence from an award of costs points of view.

#### Emerging Development Plan

17. The Inspector notes reference to the emerging North York Moors National Park Local Plan 2016 to 2035. Confirmation is sought from the parties as to the status of this plan, and whether either party intends to rely on any policies within it as part of their case. If so, copies of these policies should be provided in advance of the hearing.

#### Statement of Common Ground (SoCG)

18. The Inspector acknowledges that there are draft SoCGs submitted by the both parties, but an agreed, signed version is not before the Inspector.
19. It would be of assistance if the parties would work together to prepare an agreed version which addresses the following matters (to include matters that are agreed or not agreed).
  - Clarification/agreement in respect of the drawings being considered by the Inspector (as above). It would assist the Inspector if the revised SOCG included the full list of drawings that formed the basis of the NPA's refusal notice for each appeal.
  - The Inspector intends to view the sites from the viewpoints provided in the appellant's LVIA. However, it would be helpful if the parties could agree in advance a list of other viewpoints, or better still a map, from where they would wish the Inspector to view the site from. The locations can be discussed further at the hearing and amended as necessary.
  - Noting that suggested conditions have been provided by the NPA, it would nonetheless be useful if, without prejudice, a list of agreed/not agreed conditions was appended to the updated SOCG. These would then form the basis of discussion at the hearing. If there is no agreement then this should be explained. The parties are reminded of the need for the appellant's written agreement to the imposition of any pre-commencement conditions.

20. In order to ensure the smooth running of the hearing, the Inspector would appreciate an agreed SOCG between the appellant and the NPA, and responses to the other requests herein, as soon as possible, but **no later than 5:00pm on Monday 12 October 2020.**

#### Planning Obligation

21. In respect of Appeal B, the Inspector notes draft Heads of Terms have been submitted for a Section 106 Agreement. The appellant is reminded that a completed agreement must be before the Inspector before the hearing if it is to be taken into account.

#### Applications for Costs

22. The Inspector notes applications for costs have been made by the appellant in respect of both appeals. A response from the NPA has been received under Appeal A, but not, it would appear, under Appeal B. Confirmation is sought from the NPA as to whether a response has been sent, or will be sent, in respect of Appeal B.

#### Site Visit

23. The Inspector will need to visit the appeal site. This is likely to be on Monday 19 October should the hearing be concluded within one day. If the hearing carries on to the Monday, the visit will be made later in the week, most likely Thursday 22 or Friday 23 October.

24. At this stage, the Inspector intends to close the hearing prior to the site visit and to undertake an unaccompanied visit to the site, provided the site is accessible. However, the Inspector will discuss at the Hearing if an accompanied visit, with both main parties and interested parties in attendance, would be appropriate. The Inspector notes an earlier request from the appellant for a visit prior to the hearing; however, the Inspector does not regard this as necessary. Should an accompanied visit take place, social distancing proposals will apply at all times.

#### Provisional Main Issues

25. Based on the parties' submissions, the Inspector's provisional main issues are set out below. The Inspector would welcome the main parties reaching common ground on the main issues through the SOCG.

26. Appeal A:

- 1) the effect of the proposal on the landscape character and appearance of the area.

2) Whether the proposal represents a suitable location for agricultural buildings.

27. Appeal B: the effect of the proposal on the landscape character and appearance of the area.

#### Provisional Agenda

1. Introduction, opening formalities and points of clarification.
2. Planning policy and planning history
3. Common Land issue
4. Appeals A & B - The effect the proposals on the landscape character and appearance of the area.
5. Appeal A – location for agricultural buildings
6. Other Matters – including additional comments, if any, to be made by other interested parties.
7. Planning obligations
8. Planning conditions (without prejudice).
9. Applications for costs.
10. Arrangements for the site visit and closing.

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# Spaunton Quarry – Agricultural Justification

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## 1. Background

Savills Food & Farming department have been instructed by the North Yorkshire Moors National Park Authority to provide an independent review into the buildings at the former site of Spaunton Quarry, Kirkbymoorside.

Spaunton Quarry sits within the North Yorkshire Moors National Park and is located south west of Appleton Le Moor.

In particular, this report will assess the proposal to alter and use two redundant buildings formerly used in connection with mineral extraction to agricultural use at the former site of Spaunton Quarry.

The report will consider this proposal alongside the Local Plan for the North Yorkshire Moors, more specifically Core Policy A and the Agricultural Policy DP12. The report will also look at the functionality of the buildings and their suitability for agricultural use.

## 2. Current Farming Enterprise

The Spaunton Estate purchased a moor flock and farm from a grazier on Spaunton Moor in 2013. The flock contained some 160 ewes which were a Beltex x Swaledale.

The Beltex ewes have been gradually phased out to creating a traditional, pure Swaledale flock. At the present, lambs are sold on in early September as stores, which is general practice in the North Yorkshire Moors.

The farm is located within a Severely Disadvantaged Area (based on the Rural Payments Agency classification), meaning that it is subject to greater climatic and physical constraints when compared to lowland units. As a result of this, winters tend to be longer and harsher meaning the ability to store winter feed is greater than on other holdings.

Bank Farm, Rosedale belonging to the estate, comprises of an iron shed providing 241 m<sup>2</sup> of space that is currently used for the storage of hay and machinery. The shed at Bank Farm is inadequate for keeping lambs and ewes due to insufficient space and poor ventilation.

## 3. The Proposal

The proposal seeks to convert two existing structures at Spaunton Quarry into agricultural use, more specifically to use the building to keep some possibly all of the sheep wintered through January, February, March and April.

It has been assumed, that there are 160 ewes and 182 lambs – based on 95% of 160 ewes lambing at 1.2 lambs per ewe.

Due to the being located in a Severely Disadvantaged Area, the harsh winters mean it is difficult to keep the lambs out over winter, resulting in the lambs being sold off in early September. By selling the lambs off in September, prior to finishing, the estate is unable to reach the full financial potential – which can be excess of £50 per head.



## 4. Building Functionality and Suitability

According to the site plan submitted to the North Yorkshire Moors National Park planning authority, the two existing structures will be converted for use as a storage shed for hay, concentrates and machinery as well as housing lambs over the winter period.

The buildings are currently redundant following the closure of Spaunton Quarry. As a result of this, they have fallen into a state of disrepair. The cost of bringing these buildings into a state suitable for agricultural use is likely to be uneconomically viable and will outweigh the added premium that could be achieved by fattening the lambs.

Building 1, will house lambs over the winter period and is approximately 240m<sup>2</sup>. Building 2, is 167m<sup>2</sup> and will be used store hay and concentrates allowing for the sheep to be over wintered along with machinery.

	m <sup>2</sup>
Building 1	240
Building 2	167

Assuming the ewes are left out on Spaunton Moor for the winter, building 1 will require sufficient space to house 182 lambs for fattening. Based on the Agricultural Book of Costings, each lamb will require 0.8m<sup>2</sup> of floor space.

	m <sup>2</sup>
182 Lambs @ 0.8m <sup>2</sup>	128
Total	128

Building 1, as measured using an online mapping tool is approximately 240m<sup>2</sup>, and as table 1 shows 182 lambs for fattening require 128m<sup>2</sup>. There is therefore an excess of 112m<sup>2</sup> for sheep housing.

In the proposal, building 2 will be retained to store agricultural machinery, concentrates and winter feed for the sheep. The hay will feed both the fattening lambs housed indoors and the ewes that are outside on Spaunton Moor.

The 182 lambs will require approximately 54T of hay for the winter period, taking up 438m<sup>3</sup> of floor space. In addition to this, 160 ewes would require 48T of hay, based on the Agricultural Costings Book equating to 384m<sup>3</sup> of storage area, assuming each tonne of hay requires 8m<sup>3</sup>. The assumed storage height of the shed is 4m, therefore the total combined storage area for hay is 822m<sup>3</sup>. The floor area required is 205m<sup>2</sup>.

In addition to the hay, concentrates will be stored in a bin 2m deep, 7m<sup>2</sup> of floor space will be required. This has been based on the sheep needing the following concentrate feed, with concentrate feed typically at 86% dry matter.

- Fattening lambs: 45 kg per lamb of dry matter of concentrates, for 182 animals is 8.2T of feed.

The total tonnage of concentrate feed needed for the winter period will be 8.2T. The storage volume typically required for concentrate feeds is 1.6m<sup>3</sup> per tonne, the 8.2T will therefore require 13.13 m<sup>3</sup> of storage space. It is assumed that this will be stored in a feed bin, typically 2m deep, allowing for the slope so the feed runs out of the bin. After allowing for the walls, this will occupy 6.56 m<sup>2</sup> of floor area.

The store will also be used to house machinery required for the sheep enterprise. It is assumed that the store will house machinery only used by the Spaunton Estate. A quadbike and a quadbike trailer would be required, which would be 4m<sup>2</sup> and it is envisaged an additional 6m<sup>2</sup> would be needed for additional equipment.

The below table, shows the amount of space required for the storage of feed, concentrates and agricultural machinery.

	m <sup>2</sup>
Hay Storage	205
Concentrates	7
Machinery & General Equipment	10
<b>Total</b>	<b>222</b>

The above table shows that approximately 222m<sup>2</sup> of space will be required to store feed, concentrates and agricultural machinery. The floor space of building 2 is 167m<sup>2</sup> based Magic Map. The building currently used by the farming enterprise for storage at Bank Farm, Rosedale is 241m<sup>2</sup> meaning it is adequate for the storage of hay, concentrates and equipment.

## 5. Planning Policy

### Core Policy A

Core Policy A, provides the strategic framework for delivering National Park purposes and sustainable development. Below, will set out the proposal to convert two of the redundant buildings at Spaunton Quarry for agricultural use in relation to the priorities of Core Policy A. Where the priority is not related to agricultural use, this has been left blank.

Priority	Proposal
Providing a scale of development and level of activity that will not have an unacceptable level of impact on the wider enjoyment, peace and tranquility of the Park, nor detract from the quality of life of local residents or the experience of visitors.	Building 1, is considered large in comparison to the level of agricultural activity taking place at Spaunton Estate when assessing the floor area of the building against the m <sup>2</sup> required per lamb. This has been based on the estate housing lambs over winter for fattening. Building 2, is considered too small for the storage of feedstuffs and equipment. It would therefore be prudent for the Estate to reconsider how these buildings would be used to maximise space.
Providing development in locations and scale which will support the character and functions of individual settlements.	N/A
Maintaining and enhancing the natural environment and conditions for biodiversity and geodiversity	As stated in the agricultural justification submitted by Rural Solutions, the HLS agreement at Spaunton Moor is due to expire in 2021 and the future of the Basic Payment is also uncertain. It is therefore advisable for upland farms to reassess their farming systems, in an effort to create greater margins. By utilising the buildings at Spaunton Quarry, the business will become more resilient through increasing margins on the number of lambs sold. This will in turn allow for the continued grazing of sheep on Spaunton Moor, which will maintain and enhance the environment and conditions for biodiversity and geodiversity.
Conserving and enhancing the landscape, settlement, building features and historic assets of the landscape character areas.	The current buildings at Spaunton Quarry are redundant and falling into a state of disrepair, they are therefore becoming an eyesore on the landscape. By converting the buildings to agricultural use, they will be given a purpose whilst enhancing
Applying the principles of sustainable design and energy use to the new development.	N/A
Enabling the provision of choice of housing that meets the needs of local communities in terms of type, tenure and affordability	N/A
Strengthening and diversifying the rural economy and providing tourism based opportunities for the understanding and enjoyment of the Park's special qualities.	By converting the buildings at Spaunton Quarry, the business is hoping to strengthen its own financial position and become resilient in times of uncertainty. Over time, this will strengthen the rural economy in the area through employment whilst preserving the Park's special qualities.

The above table has compared the proposal to convert the redundant buildings at Spaunton Quarry to agricultural use against Core Policy A the strategic framework for delivering National Park purposes and sustainable development.

### Development Policy 12 – Agricultural Policy

Development Policy 12 of the North Yorkshire Moors Core Strategy and Development Policies sets out the when new agricultural buildings, tracks and structures or extensions will be permitted. Where the priority is not related to agricultural use, this has been left blank.

Priority	Proposal
There is a functional need for the building and its scale commensurate with that need.	The buildings, will be used for the storage of hay, concentrates and equipment as well as housing lambs for fattening over the winter period. At present, feedstuffs and equipment is stored at Bank Farm, Rosedale which has the required floor area. The building at Bank Farm is unable to house lambs over the winter period, meaning they are having to be sold in the Autumn as stores, for a lower price.
The building is designed for the purposes of agriculture.	As highlighted in section 4 , the buildings in their current state are not designed for the purpose of agriculture. The proposal seeks to extend building 1 to house sheep, however, if the building where to house 182 lambs as assumed above the floor space available is already more than adequate. The building however, will need to be renovated so that they are fit for purpose.
The site is related physically and functionally to existing buildings unless there are exceptional circumstances relating to agricultural necessity for a more isolated location.	Spaunton Moor, is located approximately 3.6 miles from the former Spaunton Quarry site meaning it is within a suitable distance for gathering sheep. However, the Estate's current farm steading of Bank Farm, Rosedale is within 2 miles of the moor. By relocating the farming activities to Spaunton Quarry efficiencies would be lost through an increase in transport between the sites.
A landscaping scheme which reduces the visual impact of the proposal on the wider landscape and is appropriate to the character of the locality is submitted as part of the proposal.	N/A

The above table has compared the proposal to covert the redundant buildings at Spaunton Quarry to agricultural use against Development Policy 12.

## 6. Conclusions

Drawing on the above, it is clear that the business case for using the sheds for agricultural purposes at Spaunton Quarry is strong:

- It will allow for lambs to be over-wintered increasing the return and therefore farm margin.
- It is more cost effective to convert the buildings at Spaunton Quarry rather than build a new shed at Bank Farm for housing lambs.
- The business resilience will be increased, allowing for the business to grow and thrive.

However, the functionality and suitability of the buildings are not overly suited to the proposal and the current farming system.

- Building 1 is 240m<sup>2</sup>, however, 182 lambs would require 128m<sup>2</sup> of floor space.
- Building 2 is 167m<sup>2</sup> and the feedstuffs and equipment has been calculated to take up 222m<sup>2</sup>.
- There are therefore differences in how the proposed use of the buildings are their current suitability for this purpose.