

The Planning Inspectorate

PLANNING APPEAL FORM (Online Version)

WARNING: The appeal **and** essential supporting documents **must** reach the Inspectorate within the appeal period. **If your appeal and essential supporting documents are not received in time, we will not accept the appeal.**

Appeal Reference: APP/W9500/W/20/3265041

A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name

Company/Group Name

Address

Phone number

Email

Preferred contact method

Email Post

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes No

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

LPA reference number

Date of the application

Did the LPA validate and register your application?

Yes No

Did the LPA issue a decision?

Yes No

Date of LPA's decision

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes No

Address

South Moor Farm
Langdale End
Scarborough
North Yorkshire
YO13 0LW

Is the appeal site within a Green Belt?

Yes No

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes No

E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form?

Yes No

Please enter details of the proposed development. This should normally be taken from the planning application form.

Revocation of Article 4 directive to allow use of existing airstrip for personal use by owner and emergency use

Area (in hectares) of the whole appeal site [e.g. 1234.56]

1.9 hectare(s)

Area of floor space of proposed development (in square metres)

0 sq metre(s)

Does the proposal include demolition of non-listed buildings within a conservation area?

Yes No

F. REASON FOR THE APPEAL

The reason for the appeal is that the LPA has:

1. Refused planning permission for the development.
2. Refused permission to vary or remove a condition(s).
3. Refused prior approval of permitted development rights.
4. Granted planning permission for the development subject to conditions to which you object.
5. Refused approval of the matters reserved under an outline planning permission.
6. Granted approval of the matters reserved under an outline planning permission subject to conditions to which you object.
7. Refused to approve any matter required by a condition on a previous planning permission (other than those specified above).
8. Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval.
9. Failed to give notice of its decision within the appropriate period because of a dispute over provision of local list documentation.

G. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

Please explain.

Aircraft parking area cannot be seen from public Bridleway

2. Hearing

3. Inquiry

H. FULL STATEMENT OF CASE

see 'Appeal Documents' section

Do you have a separate list of appendices to accompany your full statement of case? Yes No

(a) Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? (Please attach draft version if available) Yes No

(b) Have you made a costs application with this appeal? Yes No

I. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates;

CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below:

CERTIFICATE C and D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below.

I. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding.

(b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant.

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below.

J. SUPPORTING DOCUMENTS

01. A copy of the original application form sent to the LPA.

02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (if these did not form part of the LPA's planning application form).
03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
05. (a) Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
05. (b) A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.
- 05.(c) A list of all plans, drawings and documents upon which the LPA made their decision.
06. (a) Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application.
06. (b) A list of all plans, drawings and documents (stating drawing numbers) which did not form part of the original application.
07. A copy of the design and access statement sent to the LPA (if required).
08. A copy of a draft statement of common ground if you have indicated the appeal should follow the hearing or inquiry procedure.
09. (a) Additional plans, drawings or documents relating to the application but not previously seen by the LPA. Acceptance of these will be at the Inspector's discretion.
09. (b) A list of all plans and drawings (stating drawing numbers) submitted but not previously seen by the LPA.
10. Any relevant correspondence with the LPA. Including any supporting information submitted with your application in accordance with the list of local requirements.
11. If the appeal is against the LPA's refusal or failure to approve the matters reserved under an outline permission, please enclose:
- (a) the relevant outline application;
- (b) all plans sent at outline application stage;
- (c) the original outline planning permission.
12. If the appeal is against the LPA's refusal or failure to decide an application which relates to a condition, we must have a copy of the original permission with the condition attached.
13. A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA).
14. If the appeal is against the LPA's refusal or failure to decide an application because of a dispute over local list documentation, a copy of the letter sent to the LPA which explained why the document was not necessary and asked the LPA to waive the requirement that it be provided with the application.

K. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided?

Yes No

L. CHECK SIGN AND DATE

(All supporting documents must be received by us within the time limit)

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full statement of case) to the LPA today.

Signature

Mr Robert Walker

Date

12/12/2020 22:18:32

Name

Mr Robert Walker

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018. Further information about our Data Protection policy can be found on our website under Privacy Statement.

M. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full statement of case) not previously sent as part of the application to the LPA. If you do not send them a copy of this form and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

N. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. Please ensure that any correspondence you send to us is clearly marked with the appeal reference number.

You will not be sent any further reminders.

The documents listed below were uploaded with this form:

Relates to Section:	FULL STATEMENT OF CASE
Document Description:	A copy of the full statement of case.
File name:	StatementOfCase.doc
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	01. A copy of the original application sent to the LPA.
File name:	2020-09-04 Public Application Form.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
File name:	2020-11-16 Public - Decision Notice.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
File name:	2020-09-04 Public Plans.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05.a. Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
File name:	2020-09-04 Public Plans.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05.b. A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.
File name:	2020-09-04 Public Supporting Information.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05.(c) A list of all plans, drawings and documents upon which the LPA made their decision.
File name:	ListOfDocs.doc
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	06.a. Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application (e.g. drawings for illustrative purposes).
File name:	2020-10-12 Public - Applicant Correspondence.pdf
Completed by	MR ROBERT WALKER

Date

12/12/2020 22:18:32

South Moor Farm – Airstrip NYM/2020/0586/FL

Statement of case.

Introduction.

I am disappointed with the attitude of the North York Moors National Park Planning Authority. They seem to discount evidence supplied indicating that birds integrate well with grass airfield operations.

I fly once per week for recreational purposes usually to another airfield where I contribute to General Aviation employment of air traffic controllers, restaurant staff, and airfield staff by paying landing fees, buying fuel, and meals.

I want to fly from my own field to eliminate car travel to and from Beverley.

The Planning Authority does not seem to have incorporated national policy into their policies.

National Planning Policy Framework

Section 9. Promoting sustainable transport

104. Planning policies should:

a) support an appropriate mix of uses across an area, and within larger scale sites, to **minimise the number and length of journeys needed** for employment, shopping, **leisure**, education and other activities;

(If approved one hundred and four, one and a half hour car journeys to and from another field will be eliminated. Reducing CO2 by 1.8 tons/year.)

f) **recognise the importance of maintaining** a national network of **general aviation airfields**, and their need to adapt and change over time – taking into account their economic value in serving business, **leisure**, training and **emergency service needs**, and the Government's General Aviation Strategy⁴³.

(The airstrip has existed since 2016, the planning authority have closed it, not maintained it!)

They have consistently refused to discuss or attempt to find a resolution to my requests for occasional use of my field for light aircraft.

The fields have existed since the enclosure awards in the 1800's and have been used by light aircraft.

Their main objection, I might disturb protected bird species, is totally without foundation.

They do not seem to have looked at or taken any notice of information supplied regarding birds on airfields.

They have not proved any harm occurred whilst I was flying from the site in 2016/2017 or from many over flights of the area since then.

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I have submitted evidence from several sources indicating birds are quite happy on grass airfields.

I am a private pilot who flies once a week for recreational purposes, and owns a livestock farm.

In 2013 after facing the possible loss of flying from Wombledon in an aircraft that I shared with 3 other pilots I thought that my grass field would be a suitable replacement.

I consulted with other pilots in the area who also had difficulties with their airfields, mainly due to the distance travelled by car to and from their airfield, and decided to apply for planning permission.

The four nearest neighbours, who might be affected, were consulted and none of them were concerned or objected.

From the reaction of the planning authority and people living miles away, you could have thought I was planning another Heathrow, not the occasional use of a grass field!

History.

South Moor Farm is a Livestock farm, offers accommodation for visitors to Dalby Forest and produces green energy from wind and solar.

The number of livestock on the farm has been reduced over the years and several areas are in the Country Stewardship scheme. Some trees have been planted to improve the environment.

I purchased my own aircraft in 2016 which is only used by me.

I used my field as an air strip in 2016 and 2017 under the 28 day permitted development rule.

In 2013 I applied for planning permission for an air strip which was refused for various reasons by the North York Moors Planning Authority.

After the appeal against that decision a Planning Inspector discounted all the reasons apart from one. That being the size and type of storage building requested.

He said I could use the field as an air strip for 28 days per year without planning permission.

In 2014 I applied again but the storage building now looked like a sheep shed near the existing barns. I was a sheep farmer so thought this should be acceptable. The planning authority refused on the same grounds as the first application.

The planning inspector at the second appeal agreed with the first planning inspector and I was awarded costs against the planning authority on most of the reasons for

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refusal. However he again thought the storage building was not suitable so dismissed the appeal.

Two planning inspectors had now agreed that the only reason to refuse permission was the type and size of the storage building.

So for the third application in 2015 the building was removed from the application.

It was again refused on exactly the same grounds as before.

The planning inspector at the third appeal agreed with the other planning inspectors and I was awarded costs against the planning authority on most of the reasons for refusal.

However now the planning authority stated they were concerned about protected bird species which might be affected. The planning inspector dismissed the appeal on the grounds that there was insufficient information about the effect on birds.

A bird survey was commissioned for the fourth application in 2016 looking at two species Goshawk and Nightjar which the planning authority had targeted. The survey concluded that although the habitat near the strip was suitable there was no evidence that the birds were affected by aircraft. However the planning authority again refused permission but this time only on the bird issue.

A further bird survey was carried out in April 2017 after flying from the strip had started.

The survey revealed that goshawks were flying near the strip but again concluded that there was no evidence of harm.

The National Park Authority also started an Article 4 directive which came into effect in April 2018 stopping use of the field as an air strip.

The planning inspector for the fourth appeal hearing again dismissed the appeal because he felt there was insufficient evidence on the birds and re introduced concerns previous inspectors had found acceptable. Letters of support and evidence from an airfield manager and wildlife photographer that birds were very happy to be near aircraft seemed to be ignored.

The planning authority seems very determined to stop my air strip despite two similar air strips operating in the National Park. They also have a very busy gliding site at Sutton Bank, which uses powered aircraft to tow gliders. The aircraft often fly low over the National Park Visitor Centre bird watching area. They have approved several planning applications for expansion at Sutton Bank so I do not understand their opposition.

My field was in use from October 2016. The air strip was used for 25 days out of 28 permitted, for 20 take offs and 20 landings during 2017.

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This was stated during the fourth appeal hearing and nobody said there were any complaints or noticeable effect on birds.

Current Application.

I have revised the proposal each time I have applied. The first four applications would have allowed other pilots to benefit from the facility.

I appreciate that the National Park Authority might not want uncontrolled numbers of flights if the airfield was in public use but the use could have been controlled by appropriate conditions which were suggested.

The current application is for my sole use for up to 52 flights per year. The field would be in use for approximately 15 minutes for departure and 15 minutes for arrival, that is a total of 26 hours per year.

This very low level of activity is hardly likely to affect any birds. I have provided evidence that shows that birds thrive on and near airfields.

If permission is granted the £100 per month it currently costs to keep my aircraft in a field one and a half hours drive away will be donated to the Yorkshire Air Ambulance.

The airfield at Fadmoor in the North York Moors National Park is classed as a community asset to be used if required in a civil emergency. The field at South Moor Farm could be used if a catastrophic flooding event occurred in the Vale of Pickering.

Flying is a recreational activity which can take place over the North York Moors National Park. There are no flying restrictions. It is perverse that I can fly over my farm field but cannot use it as my base.

Comments on refusal reasons.

Reason for refusal:-

1. “The Local Planning Authority considers that it cannot be satisfactorily demonstrated that protected bird species, notably Goshawk (Schedule 1, Wildlife & Countryside Act) and Nightjar (Section 41, NERC Act, Annex 1, EU Birds Directive) would not be adversely affected by the proposed development,”

Comment:-

Whilst this may be true, the Local Planning Authority cannot satisfactorily demonstrate that any bird species would be affected. Protected bird species are not protected from over flight by aircraft. If they were there would be no flight zones to protect them. I have submitted evidence that Goshawks do exist near quite busy airfields.

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Reason for refusal:-

“or that it would not have a significant effect on the interest features of the North York Moors Special Protection Area (SPAs), because flights to and from the proposed airstrip could potentially cause disturbance to the species for which the special protection area is designated.”

Comment:-

The Special Protection areas are not within one mile of the proposed air strip. At a conservative climb rate of 500 feet per minute at 60mph the aircraft will be above the CAA,s minimum clearance of 500 feet one mile from the strip. There are no flight restrictions over SPA’s.

Reason for refusal:-

“The proposal is therefore contrary to the statutory purposes of the National Park Authority where conservation of wildlife is explicit, and Strategic Policies A and H of the Local Plan.”

Comment:-

No evidence that any wildlife will be harmed. On the contrary there will be more opportunity for wildlife on the farm.

Parts of the BBC Spring Watch were filmed at Stowe Maries airfield, (250 movements per year) showed Badgers, Foxes, Hares, Owls and birds of Prey. including a Goshawk on the airfield.

Reason for refusal:-

“Furthermore, the failure to demonstrate that protected species would not be harmed runs contrary to national policy contained in the online National Planning Guidance and Chapter 11 of the NPPF which states that conservation of wildlife is important and that it is essential for the presence or otherwise of protected species, and the extent that they may be affected by a proposed development to be established before planning permission is granted.”

Comment:-

This is not possible and is an unreasonable condition. The planning authority has not offered any advice on how this could be achieved.

It could only be demonstrated if flying was allowed and a camera was installed on the nearest Goshawk nest to monitor the bird’s reaction.

An offer to the Forestry Commission to contribute to the cost of the installation of a wildlife camera was refused.

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The bird surveys proved the presence of protected species whilst the airfield was being used and after its use was stopped by the Planning Authority.

Given evidence supplied about birds breeding near noisy forces training grounds it seems reasonable to assume light aircraft would not adversely affect them.

Reason for refusal:-

“The proposed development would be contrary to Policy ENV2 of the NYM Local Plan which seeks to ensure that development proposals do not have unacceptable impact on the tranquillity of the surrounding area in relation to visual intrusion; noise; activity levels; and traffic generation.”

Comment:-

Three previous planning inspectors did not agree with the planning authority that 250 flights per year would have an unacceptable impact.

30 minutes activity on 52 days per year will have even less impact on tranquillity.

Whilst some may consider the sight of a light aircraft as an intrusion some others will be delighted.

Very few people will hear the aircraft unless they are near the airfield. The aircraft has a noise certificate indicating the noise level is acceptable to the Civil Aviation Authority. At cruising height of 2000 feet and above the noise is negligible.

Is the activity level of 30 minutes 52 times per year really unacceptable bearing in mind the level of activity in the forest generated by the Forestry Commission, Go Ape, and Mountain Biking etc? In case they say those are quiet activities you should listen to the screams from Go Ape and the shouting between members of a group of mountain bikers.

If I am allowed to use my field there will be a reduction of two journeys through the forest which will not be noticed amongst the thousands of cars attracted to Dalby Forest by the Forestry Commission,

Reason for refusal:-

“The proposal would interfere with these qualities which are increasingly rare and are highly valued and is a very strong special quality of the National Park and would adversely affect enjoyment of the National Park.”

Comment:-

On the other hand some of the many visitors to Dalby Forest may be delighted to see a light aircraft. Over flights by light aircraft are rare and another one per week will not adversely affect visitors' enjoyment.

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Proposed Planning Conditions.

1. Sole use by the owners aircraft currently G-BGCM a Grumman Cheeta.
2. No circuit training, Aerobatics or parachuting.
3. No Glider towing by powered aircraft except after an emergency landing.
4. No more than one aircraft movement per day, with a movement defined as one take off and one landing.
5. No more than 52 flights in any one year.
6. No flying before 7 a.m. or after 9 p.m.
7. A record of all movements to be kept.
8. The provision of signage on the bridleway to inform users of aircraft activity.
9. Unauthorised emergency landings by private aircraft to be reported to the CAA for investigation of the cause of the emergency.

Conclusion:-

Birds thrive on and around airfields. Please look at the evidence supplied.

Planners should not use false assumptions to refuse planning applications for farm airstrips.

Three previous planning inspectors did not accept that 250 flights per year would have an unacceptable impact on tranquillity.

30 minutes activity on 52 days per year will not have an unacceptable impact on tranquillity or people's enjoyment of the National Park.

Flying activity on the ground can be controlled by planning conditions.

Flying activity above the ground is controlled by the Civil Aviation Authority.