

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Mr & Mrs Morley

Against: Refusal of planning permission for formation of a vehicular farm access and associated track (part retrospective)

Location: Newlands Farm, Newlands Road, Cloughton

Statement by Local Planning Authority For Written Representations Appeal

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1.0 Introduction

- 1.1 This Statement refers to a refusal of planning permission by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA) for the formation of a vehicular farm access and associated track (part retrospective) at Newlands Farm, Newlands Road, Cloughton. The application was refused on 08 October 2020.
- 1.2 The Delegated Officer Report sets out the LPA's assessment of the application, consideration of the policy context, relevant planning matters and the reasons for refusal. The appellants Statement of Case is confirmed by them as a supplementary document to the planning statement submitted with the application and adds little to the detail contained within the original planning application. Its purpose is to respond to the LPA report and consultee comments. Therefore, this statement will seek to respond to the additional points raised and it is confirmed that the Delegated Officer Report is still relevant to the case.

2.0 Appeal Site and the Surrounding Area

- 2.1 Newlands Farm lies on the eastern side of the Cloughton to Staintondale Road, approximately 1 kilometre to the north of Cloughton Village. The site comprises a traditional farmhouse with a range of traditional barns converted to holiday lets and a further building converted to a small farm shop. It is understood that the main dwelling; Newlands Farm House is also offered for holiday accommodation for larger groups up to nine people. There are also a number of very large modern agricultural buildings immediately north of the farmhouse, along with the working farmyard.
- 2.2 The site is accessed by an uphill drive, approximately 60 metres in length through an open outdoor amenity area. The access is used by all the various enterprises which operate from the site but holiday cottage traffic is separated from the main access to the farm, house and shop via a tarmac track leading to a separate parking area to the rear of the cottages.
- 2.3 In the wider context, the site lies within open countryside in an area of scattered farmsteads and other residential properties. There are also other business uses established within close proximity to Newlands Farm including the Bryherstones Country Inn to the south and further north; the Hayburn Wyke Hotel. Newlands Road provides access to the popular village of Ravenscar.

3.0 Relevant Site History

- 3.1 The following table includes the detail of the most recent and relevant planning history at the site with the approved application having been completed and continuing to operate:

NYM/2006/0577/FL	change of use of barn to form 3 no. holiday units incorporating altered access and the provision of car parking	Approved with conditions 02 November 2006
NYM/2006/0578/CU	change of use of barn to provide farm shop	Approved with conditions 02 November 2006
NYM/2006/0920/FL	reconstruction of recently demolished agricultural building to form a holiday cottage	Refused 24 January 2007

4.0 Proposed Development and the Decision

- 4.1 The application to which this appeal relates was submitted on 13 August 2020 and sought permission for the formation of a vehicular farm access and associated track (part retrospective).
- 4.2 The proposed development site lies north of the existing and long established access. The proposal sought to provide a separate access for use in connection with the agricultural vehicles and activity at the site.
- 4.3 The application was considered by the Director of Planning and refused under powers delegated to him on 08 October 2020 for the following reasons:

1. The Planning Authority considers that the required Clear visibility of 215 metres cannot be achieved along the public highway in either direction from a point 2.4 metres from the carriageway edge measured down the centre line of the proposed access road cannot be achieved and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal therefore fails to comply with NYM Local Plan Policy CO2 (Highways) which requires development to be of a scale which is compatible with the adjacent road network without detriment to highway safety. By reason of the compromised visibility and associated reduction in highway safety, the proposal would also be contrary to paragraph 108 (b) which requires a safe and suitable access to be achieved for all users of the site. Allowing the proposal would mean that the Authority would be failing in its duty and would create a new access that would be highly unsafe for users of the site and the public highway.

2. It has not been demonstrated to the satisfaction of the Local Planning Authority that there is compelling evidence to support an existing need for a new track and that existing tracks or alternative arrangements cannot meet that need. Consequently, the application does not meet points 2 and 3 of NYM Local Plan Policy BL6.

3. The proposed development relies on the removal of vegetation from land which is not within the applicant's ownership and/or control. The proposed sight lines have already been deemed as inadequate by the Local Highway Authority and for that reason, in combination with the lack of certainty that the proposed works can be delivered and thereafter maintained, the proposal would be prejudicial to highway safety which is contrary to the requirements NYM Local Plan Policy CO2 (Highways).

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 Local Plan** which was adopted by the NPA on 27 July 2020. (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:

Policy CO2 - Highways

CO2 states that new development will only be permitted where: it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety; the design, layout and surface take into account the needs of all users; and, the works are sensitive to the character of the area (in terms of both heritage and biodiversity) and are the minimum to achieve safe access.

Policy BL6 - Tracks

Local Plan Policy BL6 is only supportive of proposals to install, alter or extend tracks where: the scale and alignment of the track and materials will not have an adverse impact on the landscape and special qualities of the National Park; there is compelling evidence of a need for the track to directly support an established agricultural or forestry business and it is of an appropriate scale; it can be demonstrated that no existing roads or tracks are suitable and that alternative arrangements cannot be made to meet the identified need; it can be demonstrated that there will not be an unacceptable impact on known archaeological features; works will not adversely affect ecological assets; and, appropriate design, construction methods and materials are used to reduce the visual impact on the wider landscape.

- 5.3 **The National Planning Policy Framework** - Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The **National Planning Policy Framework** (NPPF) does not change the statutory status of the Development Plan as the starting point for decision making but is a material consideration in the determination of an application. Development that accords with an up-to-date Local Plan should be approved, and conversely development that conflicts should be refused unless other material considerations indicate otherwise. The North York Moors Local Plan was adopted on 27 July 2021 under the provisions of the 2004 Act and for the purposes of housing policies is considered not to conflict with national policies in the NPPF is therefore up-to-date and should be the starting point for any decision making in the North York Moors National Park.

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.

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.

- 5.4 **Paragraphs 108 and 109** of the NPPF are applicable to the assessment of development proposals and of relevance to this application are **paragraph 108(b)** which requires a safe and suitable access to be achieved and **paragraph 109** makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 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 and Comments on Grounds of Appeal

- 6.1 In response to the technical highway matters and calculations raised by the appellant's agent; the LPA has sought further advice and clarification from the Local Highway Authority (LHA) as the relevant expert in these matters. The Highway Engineer has offered further clarification and explanations in these matters, provided in **Appendix A** of this statement.
- 6.2 For the avoidance of doubt, the Officer report does not suggest that the submitted speed survey was undertaken during the national lockdown. The Officer report clearly states that the readings were taken on one day during the month of February. After discussing the likely limitations of that speed survey, the Officer report acknowledges that in this particular case, even if the survey had been conducted in a neutral month of 2020 (typically April to October) the sample size may have still remained low as a result of the travel restrictions in place at that time and therefore additional surveys would be beneficial, as is the case for seasonally affected months.
- 6.2 The suggestion by the appellant's agent that any further alteration and realignment of the existing access within the site would result in a comparable amount of landscape impact is noted. However, the LPA considers that there is a significant difference in the settings of each location. The existing access is seen within the context of existing built development and within an established area of associated activity. The access has previously been modified in order to accommodate the various uses and therefore, further enhancement of the access is anticipated to be more easily accommodated and visually less harmful. On the other hand, the proposed site is undeveloped, has no historical precedent and would be significantly more intrusive form of development, contrary to the aims of the aforementioned policies which seek to protect the landscape character of National Parks.
- 6.3 The Local Plan Policy relating to tracks (BL6) does not make a distinction between those applications for relatively small-scale tracks or those longer in length. At paragraph 6.24 the policy confirms that the creation of a new track (or work to an existing track) is classed as an engineering operation which constitutes development. In this case, due to the local land form which comprises a natural ravine between the farm yard and public highway, significant engineering operations would be required in order to provide a route between the proposed access point and yard. Consequently, the proposal is for the formation of a track and therefore it is considered necessary for the LPA to ensure there is an established need and appropriate justification for proposed development which would cross an open area and alter the character of this protected landscape.
- 6.4 The appellant's agent acknowledges that the development will have an impact but suggests that it will be 'localised and contained'. By reason of its position off Newlands Road, the public highway, the development site would visible short distance views in both directions. Policy BL6 does not set apart those development sites which are visible in short distances from those seen in long distant views.
- 6.5 The appellant's agent asserts that the need for the track is to ensure operation of the holiday and retail use in a managed way. However, it is clear from the associated planning history that the original application relating to the creation of the holiday units included alterations to the access and the provision of car parking in order to serve the needs of the proposed holiday and retail use. No other applications or developments

have taken place at the site since that time and therefore the reasons for creating an entirely new access are not clear. The Authority offers a pre-application advice service within which there would be the opportunity to discuss the short-comings of the current arrangement and investigate alternative options. However, no such informal advice has been sought. Alternative proposals to alter or modify the existing arrangements have not been demonstrated to the LPA.

6.6 Part of the proposed 2.4m x 70m visibility splay shown on drawing number 9/263/TR/001 extends onto land outside of the blue line indicated on the submitted location plan which indicates the extent of the appellant's land ownership.

7.0 Conclusion

7.1 The LPA is not satisfied that there is an adequate need for the proposed access and track in view of the extensive improvements made to the existing access in c. 2008. Better management of traffic within the site has not been presented to the LPA as an option for consideration and therefore the specific need has not been demonstrated. Furthermore, based on the judgement and specialist advice of the LHA, the LPA is not content that the proposed location for the access is capable of achieving the required visibility splays and would therefore be prejudicial to highway safety.

7.2 In view of the above, and the reasons outlined in the Officer Report, the proposed development is not considered to meet the requirements of Local Plan Policies BL6 and CO2. As proposed, the development is likely to lead to conditions that are prejudicial to highway safety and would therefore fail to meet the requirement of a safe access as required by NYM LP CO2, BL6 and paragraph 108 (b) of the NPPF.

7.3 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 B**.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APPW21 3272597
NYM/2020/0583/FL

APPENDIX A

Local Highway Authority Comments -

NYM/2020/0583/FL Newlands Farm, Newlands Road Cloughton – appeal statement response

My name is Kay Aitchison and I am the officer for the Local Highways Authority, North Yorkshire County Council, (NYCC) who has assessed and made recommendations regarding the above application. In response to the appellants statement I would like to clarify the guidance used and the reasons for the recommendations made.

I have inspected the site on a number of occasions since following a report to NYCC by Cloughton Parish Council in an email on 6th May 2018 regarding an new unauthorised access opening in a wall on Newlands Road Cloughton. The Parish expressed concerns regarding the location of the opening and the nature of the tipping taking place. The opening in the wall originally occurred when a vehicle collision removed a section of the wall. NYCC received a call on 25th January 2019 from a member of the public reporting mud on the road from the unauthorised access causing a danger to road users.

Since that time various letters, site visits and telephone calls have taken place to determine a suitable and safe location for an access, and requesting that the current location opening, the subject of this application and appeal, be closed and the wall reinstated. The current location as described in my recommendation, dated 1st October 2020, cannot meet the required DMRB clear visibility requirement of 215m measured 2.4m from the carriageway edge, with an eye height of 1.05m. This eye height was specified as the type of vehicle to use the access, in perpetuity, could not be guaranteed to be large and have a higher vision height. It is likely that smaller vehicles, cars, and vans would use the access. The visibility could not be meet due to the layout and alignment of the road as it rises and bends to the north of the site. The land within any visibility envelope, which should be kept clear of any obstruction, would require the removal of the existing stone wall. The land behind the wall falls steeply away.

“The Design Manual for Roads and Bridges (DMRB) contains information about current standards relating to the design, assessment and operation of motorway and all-purpose trunk roads in the United Kingdom” and is published by Department for Transport. This guidance is used by NYCC when assessing all sites, which are not within a speed limit of 40mph or less. There is no alternative guidance available for road of a lesser classification than all-purpose trunk road, which is national recognised for rural locations outside of a speed restriction or limit.

For roads, within a speed limit of 40mph or less, NYCC policy states that Manual for Streets and Manual for Streets 2, should be used. These documents are published by Department for Transport.

When assessing or carrying out a vehicle speed survey the only guidance available to determine the suitability of the information provided is CR185 Vehicle Speed Measurement published by Department for Transport as part of the DMRB document. It contains the requirements for the measurement of vehicle speeds and for determining 85th percentile speeds on existing all-purpose trunk roads. There is no other nationally recognised guidance available for a less classification of road. The introduction states that it “can be used where existing vehicle speeds are necessary to set the basis for design. Such schemes can include the setting of speed limits, minor improvements to existing roads and altering or designing new priority junctions, accesses or signal controlled junction” The guidance states the sample sizes necessary in both directions of travel, and the frequency and times which are most representative of neutral traffic flows which are not impacted by seasonal variations. It also states that when a manual survey is undertaken, a minimum of two surveys should be carried

out, on different days of the week and at different times of the day, at least a month apart, not in peak hours, this provides a more robust set of data.

Should the appeal be upheld and the access refused the LHA would recommend the following condition be added to any decision

MHC-04 Closing of Existing Access at Newlands Road Cloughton

The existing access onto **Newlands Road Cloughton** must be permanently closed off in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Reason for Condition

In the interests of highway safety and the amenity of the area.

Should the appeal be granted and the retention of the access be permitted the LHA would recommend the following conditions be added to any permission given:-

MHC-03 New and altered Private Access Verge Crossing at NEWLANDS ROAD CLOUGHTON

The development must not be brought into use until the access to the site **NEWLANDS ROAD CLOUGHTON** has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and footway must be constructed in accordance with the approved details and Standard Detail number **E30** and the following requirements.

- Any gates or barriers must be erected a minimum distance of **15 metres** back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed and maintained thereafter to prevent such discharges.
- The final surfacing of any private access within **15 metres** of the public highway must not contain any loose material that is capable of being drawn onto the existing or proposed public highway.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason for Condition

To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

MHi-C New and altered Private Access or Verge Crossing – (MHC-03)

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is

available to download from the County Council's web site:

[https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification for housing and industrial roads street works 2nd edi.pdf](https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification%20for%20housing%20and%20industrialroads%20street%20works%202nd%20edi.pdf) .

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

MHC-05 Visibility Splays at NEWLANDS ROAD, CLOUGHTON

There must be no access or egress by any vehicles between the highway and the application site at **NEWLANDS ROAD CLOUGHTON** until splays are provided giving clear visibility of **215 metres** measured along both channel lines of the major road from a point measured **2.4 metres** down the centre line of the access road. In measuring the splays, the eye height must be **1.05 metres** and the object height must be **1.05 metres**. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason for Condition

In the interests of highway safety.

MHi-D Visibility Splays – (MHC-05)

An explanation of the terms used above is available from the Local Highway Authority.

MHC-07 Delivery of off-site Highway Works

The following schemes of off-site highway mitigation measures must be completed as indicated below:

- **Fill to land within visibility envelope, construction of a suitable approved retaining structure and suitable approved edge restraint at Newlands Road Cloughton prior to permitted access being brought into use**

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason for Condition

To ensure that the design is appropriate in the interests of the safety and convenience of highway users.

MHi-F Delivery of off-site highway works – (MHC07)

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire County Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence

APPENDIX B

Proposed Conditions

Should the appeal be dismissed and the access refused the following condition is recommended:

The existing access onto **Newlands Road, Cloughton** must be permanently closed off in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

Should the appeal be allowed and permission is granted for the proposal, the following conditions are recommended:

1.	The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2.	The development hereby permitted shall not be carried out other than in strict accordance with the following documents: Document Description Document No. Date Received or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority
3.	The development must not be brought into use until the access to the site NEWLANDS ROAD CLOUGHTON has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements: The crossing of the highway verge and footway must be constructed in accordance with the approved details and Standard Detail number E30 and the following requirements. <ul style="list-style-type: none"> • Any gates or barriers must be erected a minimum distance of 15 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway. • Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed and maintained thereafter to prevent such discharges. • The final surfacing of any private access within 15 metres of the public highway must not contain any loose material that is capable of being drawn onto the existing or proposed public highway. • Measures to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details.
4.	There must be no access or egress by any vehicles between the highway and the application site at NEWLANDS ROAD CLOUGHTON until splays are provided giving clear visibility of 215 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 1.05 metres . Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

5.	<p>The following schemes of off-site highway mitigation measures must be completed as indicated below:</p> <ul style="list-style-type: none">• Fill to land within visibility envelope, construction of a suitable approved retaining structure and suitable approved edge restraint at Newlands Road Cloughton prior to permitted access being brought into use <p>For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.</p> <p>An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.</p> <p>A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.</p> <p>Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.</p>
6.	<p>No work shall commence to clear the site in preparation for the development hereby permitted until full details of the proposed boundary treatment to the site, including the size and species of any hedging, the materials to be utilised to any walls or fences and the timetable to implement the proposed works, shall be submitted to and approved in writing by the Local Planning Authority. The site boundary works shall then be implemented in accordance with the approved details. The boundary treatment shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.</p>
7.	<p>No work shall commence to clear the site in preparation for the development hereby permitted until full details of the access surfacing have been submitted to and approved in writing by the Local Planning Authority. The access surfacing shall then be implemented in accordance with the approved details and shall be maintained in that condition in perpetuity.</p>

Informatives:

1. Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's web site:
https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing_ind_est_roads_street_works_2nd_edition.pdf .

Planning Inspectorate Reference:

APPW21 3272597

Local Planning Authority Reference:

NYM/2020/0583/FL

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in condition 3.

2. An explanation of the terms used in condition 4 is available from the Local Highway Authority.
3. Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire County Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.