

# North York Moors National Park Authority

## Delegated decision report

### Application number

NYM/2021/0504/FL

### Development description

variation of condition 4 of planning approval NYM/2020/0757/FL to include a mortgagee in possession clause

### Site address

Land at Toft House Caravan Site, Main Road, Aislaby

### Parish

Aislaby

### Case officer

Mrs Hilary Saunders

## Director of Planning's Recommendation

Approval subject to the following:

### Condition(s)

Condition number	Condition code	Condition text									
1	TIME15	The development hereby permitted shall be commenced before the 30 April 2024.									
2	PLAN00	The development hereby permitted shall not be carried out other than in strict accordance with the following documents: <table border="1"><thead><tr><th>Document Description</th><th>Document No.</th><th>Date Received</th></tr></thead><tbody><tr><td>Proposed construction two bedroom cottage</td><td>KH20202/1 Rev B</td><td>13/4/2021</td></tr><tr><td>Proposed construction of three bedroom cottage and streetscene</td><td>KH2020/1 Rev B</td><td>13/4/2021</td></tr></tbody></table> or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority.	Document Description	Document No.	Date Received	Proposed construction two bedroom cottage	KH20202/1 Rev B	13/4/2021	Proposed construction of three bedroom cottage and streetscene	KH2020/1 Rev B	13/4/2021
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Proposed construction two bedroom cottage	KH20202/1 Rev B	13/4/2021									
Proposed construction of three bedroom cottage and streetscene	KH2020/1 Rev B	13/4/2021									
3	MISC00	Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), no development within Schedule 2, Part 1, Classes A to H Schedule 2, Part 2, Classes A to C and within Schedule 2 Part 14 Classes A to I of that Order shall take place without a further grant of planning									

		permission being obtained from the Local Planning Authority.
4	MISC00	<p>The occupation of the dwelling hereby permitted shall be limited to:</p> <p>i) a qualifying person; and</p> <p>ii) a wife or husband (or person living as such), licensee, dependant or sub-tenant of a qualifying person.</p> <p>For the purpose of the above, a person is a qualifying person in relation to the dwelling if he/she has an interest in the dwelling (see Note A) and, immediately prior to occupying the dwelling, he/she satisfied the Local Planning Authority that he/she was in need of local needs housing in terms of the criteria set out in Core Policy J of the adopted North York Moors Local Development Framework, namely that he/she:</p> <p>a) is currently living in and has permanently resided in the National Park for five years or more and is living in accommodation that no longer meets their requirements or</p> <p>b) does not currently live in the National Park but has a strong and long standing link to the local community including a previous period of residence of five years or more or</p> <p>c) has an essential need to move to live close to relatives who are currently living in and have resided in the National Park for at least the previous five years or more and require support for reasons of age or infirmity or</p> <p>d) requires support for reasons of age or infirmity and need to move to live close to relatives who are currently living and have resided in the National Park for</p> <p>at least the previous five years or more or</p> <p>e) needs to live in the National Park as a result of current sole employment within that parish or adjacent parishes within the National Park.</p> <p>Prior to the occupation of the development the qualifying person shall have obtained confirmation in writing from the Authority that they satisfy the local need criteria outlined in points a - e above.</p> <p>Note A: For the purposes of the above, a person has an interest in the dwelling if he/she has a freehold or leasehold interest in</p>

	<p>the whole or any part of it, or is a secure tenant or statutory tenant within the meaning of the Housing Act 1985 or the Rent Act 1977.</p> <p>Note B: For the purposes of the above, resident within the National Park will include the whole of parishes split by the National Park boundary with the following exceptions; Allerston, Beadlam, Burniston, East Ayton, East Harlsey, Ebberston and Yedingham, Great Ayton, Great and Little Broughton, Great Busby, Guisborough, Ingleby Arncliffe, Irton, Kirkby in Cleveland, Kirkbymoorside, Lockwood, Nawton, Newby, Pickering, Potto, Scalby, Snainton, Sutton under Whitestonecliffe, West Ayton.</p> <p>Note C: A mortgagee of the owners exercising its statutory power of sale, a receiver appointed thereby, or a successor in title thereto is not bound by the provisions of this Condition, (provided always that any such mortgagee must be a body corporate registered with and regulated by the Prudential Regulation Authority (or any successor body whose function is to regulate mortgages and loans))."</p> <p>The local occupancy restriction shall however be replaced by a principal residence restriction as follows:-</p> <p>The application property hereby permitted, shall be used as a principal residential dwelling (Class C3) and for no other purpose including any other use in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The property shall be the only or principal home of the main occupant and it shall be occupied by the main occupant for at least 80% of the calendar year in the event that the main occupant occupies more than one property. The property shall not be occupied by the main occupant as a second home.</p> <p>The occupants shall supply to the local planning authority (within 14 days of the local planning authority's request to do</p>
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		so) such information as the local planning authority may reasonably require in order to determine compliance with this condition. For the avoidance of doubt the
5	MISC00	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.
6	MISC00	No work shall commence on the construction of the walls and roof of the development hereby permitted until details of the stone and tiles, including samples if so required by the Local Planning Authority, to be used for the external surfaces of the development (including dressings) have been submitted to and approved in writing by the Local Planning Authority. The materials used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.
7	MISC00	No work shall commence on the excavation works for the development hereby permitted until a one metre square freestanding panel of stonework showing the type of stone and stonework to be used in the construction of the development hereby permitted has been constructed on site and approved in writing by the Local Planning Authority. All new stonework shall match that of the approved panel both in terms of the stone used and the coursing, jointing and mortar mix and finish exhibited in the panel unless otherwise agreed in writing by the Local Planning Authority. The stone panel constructed shall be retained on the development site until the development hereby approved has been completed.
8	MISC00	The rooflights to be installed in the development hereby permitted shall be a conservation style rooflight unless otherwise agreed in writing with the Local Planning Authority.
9	MISC00	All new window frames, glazing bars and external door frames shall be of timber construction, painted white within six months of the date of installation and shall be maintained in that condition in perpetuity, unless otherwise agreed in writing with the Local Planning Authority.
10	MISC00	The lintels and cills of all new windows hereby approved, together with any replacement lintels and cills, shall be of

		natural or reclaimed stone.
11	MISC00	No work shall commence on the installation of any door in the development hereby approved until detailed plans showing the constructional details and external appearance of all external doors and frames (and glazing if included) have been submitted to and approved in writing by the Local Planning Authority. All doors shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
12	MISC00	No work shall commence on the installation of any replacement or new windows (and glazing if included) in the development hereby approved until detailed plans showing the constructional details of all window frames to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Such plans should indicate, on a scale of not less than 1:20, the longitudinal and cross sectional detailing including means of opening. The window frames shall be installed in accordance with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
13	MISC00	The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilised in the development and shall thereafter be so maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
14	MISC00	The rainwater goods utilised in the development hereby permitted shall be coloured black and shall thereafter be so maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
15	MISC00	The development must not be brought into use until the access to the site 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 Standard Detail number E6W and the following requirements.

		<ul style="list-style-type: none"> <li>- Any gates or barriers must not be able to swing over the existing highway.</li> <li>- That part of the access extending 6 metres into the site from the carriageway of the existing highway must be at a gradient not exceeding 1 in 10.</li> <li>- Provision to prevent surface water from the site/plot discharging onto the existing highway must be constructed in and maintained thereafter to prevent such discharges.</li> <li>- The final surfacing of any private access within one metre of the public highway must not contain any loose material that is capable of being drawn on to the existing public highway.</li> <li>- Measures to enable vehicles to enter and leave the site in a forward gear.</li> </ul>
16	MISC00	No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing KH20202/1 Rev B. Once created these parking areas shall be maintained clear of any obstruction.
17	MISC00	Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.
18	MISC00	The area of land to the north east of the hedgeline shown on the layout plan on drawing no. KH20202 Sheet 1 Revision B shall not form part of or be used as domestic curtilage.
19	MISC00	Prior to the development being brought into use details of a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for boundary hedge planting and shall include details of any existing hedges and trees to be retained on the site together with any measures for managing/reinforcing these and shall specify plant species, sizes and planting densities for any new areas of planting. The approved details shall be carried out no later than the first planting season following the occupation of the buildings, or completion of the development, whichever is the sooner, or in accordance with a programme agreed by the Local Planning Authority. The approved landscaping scheme shall be

		maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
20	MISC00	The existing leylandii hedge shall not be removed during the bird breeding season (March to August inclusive).

**Reason(s) for condition(s)**

Reason number	Reason code	Reason text
1	TIME01	To ensure compliance with Sections 91 to 94 of the Town and Country Planning Act 1990 as amended.
2	PLAN00	For the avoidance of doubt and to ensure that the details of the development comply with the provisions of Strategic Policies A and C of the North York Moors Local Plan, which seek to conserve and enhance the special qualities of the National Park.
3	MISC00	In order to enable the Local Planning Authority to retain control over future alterations to the property in the interests of safeguarding the existing form and character of the building in line with Strategic Policies A and C of the North York Moors Local Plan, which seek to enhance and conserve the special qualities of the National Park and secure high quality design for new development.
4	MISC00	In order to comply with Strategic Policy M of the North York Moors Local Plan which seeks to restrict the occupancy of new residential development to those with a local links and an essential need to live in the locality.
5	MISC00	In order to comply with the provisions of Strategic Policy A of the North York Moors Local Plan which seeks to ensure that new development does not detract from the quality of life of local residents.
6&7	MISC00	For the avoidance of doubt and in order to comply with the provisions of Strategic Policies A and C of the North York Moors Local Plan which seek to ensure that building materials are of a high quality and compatible with the character of the locality and that the special qualities of the National Park are safeguarded.
8-14	MISC00	For the avoidance of doubt and in order to comply with the provisions of Strategic Policies A and C of the North York Moors Local Plan which seek to ensure that the appearance of

		the development is compatible with the character of the locality and that the special qualities of the National Park are safeguarded.
15 - 17	MISC00	In accordance with Policy CO2 of the North York Moors Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.
18	MISC00	In the interests of the visual amenities of the locality and to comply with the provisions of Strategic Policy A of the North York Moors Local Plan which seeks to conserve and enhance the special qualities of the National Park.
19	MISC00	In order to comply with the provisions of Strategic Policy C of the North York Moors Local Plan which seeks to ensure that new development incorporates a landscaping scheme which is appropriate to the character of the locality and retains important existing features.
20	MISC00	In order to comply with the provisions of Policy ENV1 of the North York Moors Local Plan which seeks to conserve and enhance the quality and diversity of the natural environment.

### Informative(s)

Informative number	Informative code	Informative text
1	INFO0	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.
2	INFO0	Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they



		<p>have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England <a href="http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx">http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx</a>. Further information on wildlife legislation relating to birds can be found at <a href="http://www.rspb.org.uk/images/WBATL_tcm9-132998.pdf">www.rspb.org.uk/images/WBATL_tcm9-132998.pdf</a>.</p> <p>If advice is needed please contact the National Park Authority's Conservation Department on 01439 772700 or <a href="mailto:conservation@northyorkmoors.org.uk">conservation@northyorkmoors.org.uk</a>.</p>
3	INFO0	<p>New build houses provide an excellent opportunity to incorporate features for biodiversity such as integral bat boxes and bird nest boxes (especially for swifts) at minimal additional cost, which help to offset losses of habitat caused by the development. Consequently the applicant is requested to consider incorporating a number of inbuilt features into their homes during the construction phase to provide ongoing habitat for species which depend on the built environment.</p>

### Consultation responses

Parish

Third party responses

None

Publicity expiry

Site notice expiry date – 3 August 2021

### Background

Planning permission for these two dwellings was granted in April 2021.

The applicant will shortly commence construction but is having difficulty securing a mortgage due to the local occupancy restriction.

Consequently, the applicant seeks to include a “mortgagee in possession” clause which would mean that if the mortgage lender had to re-possess the house, the occupancy condition would not apply, to enable the bank to sell the property quickly and reduce the risk of the mortgage loan. Consequently, this application seeks to vary the occupancy condition to include the “mortgagee in possession” clause.

## Main issues

### Local Plan

Policy C013 - Local Connection Criteria for Local Needs Housing – sets out that the occupancy of local needs dwellings will be restricted to those currently resident in the National Park, having been resident in the Park for at least the previous 3 years; or currently in employment in the National Park; or have an essential need to live close to relative(s); have an essential requirement for substantial support from relatives or are former residents whose case for needing to return to the National Park is accepted by the Authority.

Applications to remove a local connection condition will only be permitted if it is clearly demonstrated that the property has been adequately marketed at a suitable price and for an appropriate period of 12-18 months. In such circumstances the Authority will apply a principal residence condition.

The Policy text sets out that local connection conditions represent a long-term strategy to ensure that at least part of the housing stock of the National Park remains available to meet the current and future needs of local communities. These dwellings form a valuable part of the existing stock and the Authority will resist applications to have local connection conditions removed, even in Larger Villages where principal residence housing is now supported.

### Material Considerations

In relation to the proposed mortgagee in possession clause, this would provide more assurance for mortgage companies and make it easier for the applicants to sell the property if they wish. It is considered that the risk of repossession and the condition being lost for this reason is less than the risk of the condition being removed in its entirety because the applicants have marketed the property for an extended period of time without successfully selling.

However, with the introduction of “principal residence” restrictions in the recently adopted local plan, it is considered that the mortgagee in possession clause should allow the local occupancy restriction to change to the principal residence restriction, rather than straight to open market. It is considered that the requirements of the principal residence condition are far less onerous and should not impact significantly on a mortgage lenders ability to make a quick sale.

### Recommendation

In view of the above, it is recommended that the local occupancy restriction be amended to include the “mortgagee in possession” clause in order that a prospective purchaser can secure a mortgage.

**Pre-commencement conditions**

N/A

**Explanation of how the Authority has worked positively with the applicant/agent**

Approval (No Amendments Required)

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and confirmed to the applicant/agent that the development is likely to improve the economic, social and environmental conditions of the area.