

North York Moors National Park Authority

Delegated decision report

Application reference number: NYM/2021/0499/FL

Development description: permanent change of use of domestic garden to tea garden

Site address: Underhill Cottage, Underhill, Glaisdale,

Parish: Glaisdale

Case officer: Mrs Hilary Saunders

Applicant: Mr Robert Doncaster
Underhill Cottage , Underhill, Glaisdale, Whitby, YO21 2PJ

Agent:

Director of Planning's Recommendation

Approval subject to the following: / Refusal for the following reason(s)

Condition(s)

Condition number	Condition code	Condition text
1	PLAN02	The development hereby approved shall be only carried out in strict accordance with the detailed specifications and plans comprised in the application hereby approved or in accordance with any minor variation thereof that may be approved by the Local Planning Authority.
2	RSU000	The premises shall not be used other than as a Tea Garden and shall not be used for any other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order as amended in September 2020) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, or within Schedule 2, Part 3, Classes A-V of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order).
3	RSU000	The Tea Garden hereby approved shall not be operated separately from, and shall remain ancillary to the use of the main dwelling known as Underhill Cottage
4	RSU000	No buildings or structures within the garden shall be used in conjunction with the tea garden use, and shall be used for domestic purposes only.
5	RSU000	Within the development hereby approved, there shall be no more than 16 covers provided and no more than 20 customers at any one time, unless otherwise agreed in writing by the Local Planning Authority
6	RSU000	The tea garden hereby permitted shall not be open to customers outside the hours of 1000 to 1600 Thursdays to Sundays. Any variation to these hours will require a new grant of planning consent from the Local Planning Authority.
7	GACS00	No hot food shall be prepared or sold at the Tea Garden or otherwise within the property known as Underhill Cottage hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason(s) for condition(s)

Reason number	Reason code	Reason text
1	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.
2	RSU000	In order to enable the Local Planning Authority to retain control over future changes of use to the property which would otherwise be permitted by 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) or the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), and to comply with the provisions of 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 ensure that development does not have an adverse effect on the amenities of adjoining occupiers.
3 -5	RSU000	In order to enable the Local Planning Authority to retain control over the scale of activity at the site and ensure compliance with NYM Strategic Policy A which seek to conserve and enhance the special qualities of the NYM National Park.
6 & 7	GACS00	In order to comply with the provisions of Strategic Policy A and ENV4 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 or the character of the locality

Informative(s)

Informative number	Informative code	Informative text
1	INFO0	<p>The applicant is advised that they must register 28 days PRIOR to opening with Scarborough Borough Council via www.scarborough.gov.uk/foodregistration</p> <p>Any food preparation kitchen must meet the requirements of current Food Hygiene Regulations.</p>

Consultation responses

Parish Council

No comments received

Highways

14 July 2021 - Firstly, the LHA is not aware of receiving any adverse comments about customers parking in areas that caused problems for this application whilst it has had the temporary permission.

However, the three year period has included the unprecedented times with Covid restrictions. Can the applicant provide information on how often the tea garden was open before and after the covid restriction started? Also can the applicant provide any statement on whether the principle of attracting customers using alternative forms of transport other than a car was achieved.

North Yorkshire Police Designing Out Crime Officer

No comments

North Yorkshire Fire & Rescue

No comments

Environmental Health

No adverse comments. The kitchen facilities would need to meet the requirements of the Food Hygiene regulations.

Third party responses

Name

None

Publicity expiry

Site notice expiry date – 4 August 2021

View down into site from driveway



Background

Underhill Cottage is a detached property located at the southern side of Glaisdale in a substantial steeply sloping plot.

A temporary planning permission was granted in 2018 for the change of use of the domestic garden to a 20 cover tea garden, in the form of garden seating. The tea garden is aimed at passing walkers and cyclers.

In support of that application, the following information was submitted:-

“After living at this address since 2011, I would estimate that at least half of coast to coast walkers use the road past the house instead of the official way marked route. We also have many walkers not doing the coast to coast, just rambling the moors. Almost all cyclists pass the house as the road to/from Anglers Quarters is very steep.

We have garden seating for 20 people, but, based on the previous Tea Room, do not expect to get this number at one time.”

In support of the current application and in response to the queries raised by the Highways Officer, the applicant has submitted the following information:-

Our weekly opening times are Thursday to Sunday 10.00 to 16.00. In 2019 we opened from 28th March to 6th October. In 2020 we opened 9th July to 4th October.

This year we opened 15th April and intend to close 3rd October and are also open on Bank holiday Mondays.

Generally speaking in future years we would open from Easter to end of September and Bank holiday Mondays.

As far as we are aware most customers arrive on foot or bicycle. We have 'No Parking for Tea Garden' signs outside the property. Some customers are obviously not walkers/cyclists. We believe they park in village and walk to the Tea Garden. Occasionally some will stop the car to offload (infirm) passengers then park elsewhere.

Main issues

Local Plan

The previous temporary permission was approved under the now superseded Local Development Plan which were Core Policy H and DP14.

Strategic Policy K - The Rural Economy - seeks to support development that fosters the economic and social well-being of local communities where it promotes and protects existing businesses by providing flexibility for established rural businesses to diversify and expand; it helps maintain or increase job opportunities in the agricultural, forestry and tourism sectors and provides for and supports small and micro business through the provision of flexible start-up businesses; it provides additional opportunities to diversify and better equip the National Park's workforce, or provides additional facilities, or better use of existing facilities for educational and training uses.

Policy BL8 - Shops, Offices and Food and Drink Services - supports new retail development, professional and financial and food and drink services where the proposal is in accordance with the policies in the Helmsley Local Plan; is within the main built up area of Larger Villages; within the main built up area of Smaller Villages where they are compatible with the character of the area or in Open Countryside where new proposals are ancillary to an existing enterprise. Proposals resulting in the loss of retail development will only be permitted if it can be demonstrated robustly that the facility is no longer suitable for retail use, in accordance with the viability and marketing tests.

Material Considerations

The existing tea garden has been operating since 2018 and no complaints have been received regarding its use and the Highway Authority has not received any complaints.

The low maximum of 20 people within this large garden does not appear to be resulting in unacceptable levels of noise or disturbance, or have any adverse impact on the immediate area or this part of the National Park. The temporary permission was granted to assess any highway impact.

Due to the small scale of the development, the topography of the garden and proposed condition to limit the type of food sold, it is unlikely that the continued use would have a detrimental impact on the residential amenity of any neighbouring property.

In conclusion, the granting of a permanent permission for a small tea garden in this location is not considered to have any detrimental impact on the residential amenity of the occupier of any property in the vicinity of the application site, the development is unlikely to have any detrimental impact on road safety and as such is considered to be acceptable in this instance.

Consequently, it is recommended that a permanent permission is now granted.

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.