

North York Moors National Park Authority

Delegated decision report

Application reference number: NYM/2021/0613/FL

Development description: creation of footpath over common land

Site address: Woodwarks Bank located south west of Under Hill Cottage, Glaisdale,

Parish: Glaisdale

Case officer: Miss Kelsey Blain

Applicant: Glaisdale Parish Council

fao: Mr Mark Hollingworth, Postgate Farm, Glaisdale, North Yorkshire, YO21 2PZ

Agent:

Director of Planning's Recommendation

Approval subject to the following:

Condition(s)

Condition number	Condition code	Condition text																					
1	TIME01	<p>Standard Three Year Commencement Date</p> <p>The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.</p>																					
2	PLAN01	<p>Strict Accordance With the Documentation Submitted or Minor Variations - Document No.s Specified</p> <p>The development hereby permitted shall not be carried out other than in strict accordance with the following documents:</p> <table border="0"> <thead> <tr> <th>Document Description</th> <th>Document No.</th> <th>Date Received</th> </tr> </thead> <tbody> <tr> <td>Application Form</td> <td></td> <td>03 August 2021</td> </tr> <tr> <td>Location Plan</td> <td></td> <td>03 August 2021</td> </tr> <tr> <td>Sectional Details</td> <td></td> <td>03 August 2021</td> </tr> <tr> <td>Confirmation of footpath width</td> <td></td> <td>16 August 2021</td> </tr> <tr> <td>Tree Survey</td> <td></td> <td>23 August 2021</td> </tr> <tr> <td>Amended Details</td> <td></td> <td>27 September 2021</td> </tr> </tbody> </table> <p>or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority.</p>	Document Description	Document No.	Date Received	Application Form		03 August 2021	Location Plan		03 August 2021	Sectional Details		03 August 2021	Confirmation of footpath width		16 August 2021	Tree Survey		23 August 2021	Amended Details		27 September 2021
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3	HWAY00	<p>New Verge Crossing at two locations on Carr Lane</p> <p>The footpath must not be brought into use until the accesses on Carr Lane have 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:</p> <p>The crossing of the highway verge must be constructed in accordance with the Standard Detail for a footway as shown in detail number A1 and the following requirements. All works must accord with the approved details.</p>																					

4	LNDS00	There shall be no tree or scrub clearance in connection with the development hereby permitted during the bird breeding season of March to August inclusive.
5	LNDS00	The development hereby permitted shall be carried out in strict accordance with the measures set out in Sections 5 - 7 and Appendices 2 -7 of the Arboricultural Method Statement, dated August 2021, prepared by Andrew Elliott, Elliott Consultancy Ltd.

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	PLAN01	For the avoidance of doubt and to ensure that the details of the development comply with the provisions of NYM Strategic Policy A and NYM Strategic Policy C, which seek to conserve and enhance the special qualities of the NYM National Park.
3	HWAY00	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.
4	LNDS00	To ensure protection of a species protected under the Wildlife and Countryside Act and compliance with NYM Strategic Policy E which seeks to conserve and enhance the quality and diversity of the natural environment.
5	LNDS00	In accordance with NYM Strategic Policy E which seeks to conserve and enhance the quality and diversity of the natural environment.

Informative(s)

Informative number	Informative code	Informative text
1	MISCINF12	<p>Birds</p> <p>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</p>

		<p>protected against disturbance while nesting and when they 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 http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx. Further information on wildlife legislation relating to birds can be found at www.rspb.org.uk/images/WBATL_tcm9-132998.pdf.</p> <p>If advice is needed please contact the National Park Authority's Conservation Department on 01439 772700 or conservation@northyorkmoors.org.uk.</p>
2	INFO0	<p>Other Permissions required from the Local Highway Authority</p> <p>Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions).</p> <p>Further information on these matters can be obtained from the Local Highway Authority.</p> <p>Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place.</p>
3	MISCINF02	<p>Coal Referral Area</p> <p>The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848.</p> <p>Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority</p>

Consultation responses

Parish

No comments received.

CL63 Protection Group

25 August 2021

We as a group are against any loss of common land. There is a case for safety reasons for a footpath, but the use of wood chipping would be more appropriate. Stone chippings would be more intrusive and are moving closer to the requirement of having Secretary of State approval. The number of trods around the village and dale that are lost to vegetation growth would suggest that this path will not survive more than a year or two and money could be better spent elsewhere.

05 September 2021

The group have concerns over the growing urbanisation of the village, the footpath being one instance of this.

Common land usage in a town or city is very different from common land usage in a rural situation. We accept the road safety aspect, but concerned about the applicant's comments that "the area of common has become very overgrown". "Overgrown," "unused," "just wasteland" have all been put forward as reasons for developing the common. A desire line appearing on a common is a reason to consider whether a footpath is necessary. As the area is overgrown, this is not the case. When farmers are encouraged/paid to leave headlands and the BBC constantly promotes leaving at least some if not all of our gardens to go wild, we should not seek to mow the common.

It is agreed that if the footpath was used it would improve road safety.

Concerns about funding for the maintenance of the footpath.

Do not object, as it cannot be disputed that the section of road is dangerous to walk, however, as is the case of the trods around Glaisdale, believe that the path will be unused and so will disappear over time.

Highways

It is considered that the "maintainable highway at public expense" (MH@PE) verge extends for a width of approximately 3 metres at both ends of the proposed footpath. In these locations, the land has dual status of being both Common Land and MH@PE.

For those works within the MH@PE area, the footpath should be constructed to an agreed standard and will have a surface not containing any loose material. This work is required to be done with a highways licence by an accredited contractor.

Police - Traffic

No comments received.

Third party responses

None.

Publicity expiry

Advertisement/site notice expiry date: 08 September 2021

Photo taken from the top of the site looking south.



Photo taken from Carr Lane looking south.



Background

Woodwards Bank consists of a 0.5 ha area of Common Land located to the south of Glaisdale. The site is located to the south east of St Thomas' Church and is bounded to the west by Carr Lane.

This application seeks planning permission for the construction of a footpath across the common.

Main issues

The most relevant policies contained within the NYM Local Plan to consider with this application are Strategic Policy A (National Park Purposes and Sustainable Development), Strategic Policy E (The Natural Environment) and Policy ENV1 (Trees and Woodland).

Strategic Policy A supports a positive approach to new development where decisions are consistent with National Park statutory purposes to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Strategic Policy E seeks to conserve and enhance the quality and diversity of the natural environment by ensuring that developments that have an unacceptable impact on the natural environment, the wildlife it supports and the environmental benefits it provides will not be permitted.

Policy ENV1 sets out a presumption in favour of the retention and enhancement of existing trees on all developments and does not support development that would lead to the loss of or damage to ancient woodland and aged or veteran trees unless there are wholly exceptional reasons.

The proposed footpath would have a width of 1.2 metres and would extend from the north-west edge of the site to the south-east edge and would abut the highway at both ends. The application originally proposed to surface the entire path in crushed stone, however following concerns raised by the Local Highway Authority regarding the dragging of loose material onto the publically maintained highway, the application was amended to ensure that both ends of the path will consist of a 3 metre long area of tarmac.

The development would require the removal of 2 no. Category C trees which are considered to be of low quality and value. The Tree Survey submitted in support of this application sets out a number of mitigation measures to protect existing trees and reduce the impact of the development and the Authority's Conservation team have raised no objections to this approach.

Concerns have been raised by the CL63 Protection Group who object to the loss of any common land and the urbanisation of Glaisdale.

As there is currently no pavement on either side of Carr Lane, the proposed footpath would significantly improve road safety along the highway and access to the tennis courts which are located to the south west of the site. The development is considered

to be of a design and scale that would have minimal impact upon the character and appearance of the surrounding area and the proposed measures are felt to be appropriate for the protection of the existing trees and wildlife. While concerns about the urbanisation of common land are understood, there are currently 2 no. benches and various other pieces of street furniture, including road signs, at the site and so it is not felt that the proposed footpath would be out of place in this location. The development would promote the enjoyment of the National Park and would conserve the natural beauty and wildlife of the area in accordance with SPA, SPE and ENV1.

For the reasons outlined above this application is recommended for approval.

Pre-commencement conditions

N/A

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

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and recommended changes to the proposal including the use of tarmac on either end of the footpath, so as to deliver sustainable development.