

# North York Moors National Park Authority

## Delegated decision report

**Application reference number:** NYM/2021/1020

**Development description:** construction of road and turning area for forestry purposes

**Site address:** Broxa Forest located south west of Silpho Brow Farm West, Silpho

**Parish:** Suffield-Cum-Everley

**Case officer:** Mrs Helen Stephenson

**Applicant:** Yorkshire Forest District

fao: Mr John Harkness, Outgang Road, Pickering , YO18 7EL

**Agent:**

## Director of Planning's Recommendation

Approval subject to the following:

### Conditions

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>Location plan</td> <td>N/A</td> <td>22 Dec 2021</td> </tr> <tr> <td>Site plan</td> <td>CE2122606-02 Rev C</td> <td>08 Feb 2022</td> </tr> <tr> <td>Entrance cross-section and kerb detail</td> <td>CE2122606-03 Rev A</td> <td>08 Feb 2022</td> </tr> <tr> <td>Flockrake Noddle, Broxa Ecological Statement</td> <td>N/A</td> <td>09 Feb 2022</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	Location plan	N/A	22 Dec 2021	Site plan	CE2122606-02 Rev C	08 Feb 2022	Entrance cross-section and kerb detail	CE2122606-03 Rev A	08 Feb 2022	Flockrake Noddle, Broxa Ecological Statement	N/A	09 Feb 2022
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3.	HWAY00	<p>The development must not be brought into use until the access to the site at Swang Road, Silpho 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:</p> <p>The crossing of the highway verge must be constructed in accordance with the approved details and Standard Detail number E7 and the following requirements:</p> <ol style="list-style-type: none"> <li>a) Any gates or barriers must be erected on the site boundary and must not be able to swing over the existing or proposed highway.</li> <li>b) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed in</li> </ol>															

		<p>accordance with the approved details and maintained thereafter to prevent such discharges.</p> <p>c) 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 on to the existing or proposed public highway.</p> <p>d) Measures to enable vehicles to enter and leave the site in a forward gear.</p> <p>All works must accord with the approved details.</p>
4.	HWAY00	<p>No development on the site must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.</p> <p>The Plan must include, but not be limited, to arrangements for the following in respect of of the works:</p> <ol style="list-style-type: none"> <li>1. the parking of contractors' site operatives and visitor's vehicles clear of the highway;</li> <li>2. areas for storage of plant and materials used in constructing and operating the site clear of the highway;</li> <li>3. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes; and</li> <li>4. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.</li> </ol>
5.	MISCO0	<p>Where possible no works are to be undertaken from, or vehicles or materials stored on, the valuable road verge habitat either side of the proposed access. Where such impact cannot be avoided, existing vegetation should be turf stripped and nurtured (including watering to maintain viability of existing vegetation) for replacement on completion of works. Assessment of the verge must be undertaken post works to ensure successful re-establishment of vegetation. If re-establishment of the turves fails, re-establishment of vegetation should be undertaken through the collection and spreading of seed from surrounding areas of the verge within 2 years of the completion of works.</p>
6.	ARCH00	<p>No development shall take place on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The archaeological</p>

		mopnitoring shall provide for the clearance of the footprint of the development including the verge access and aforestred area and the limits of the scheduled remains shall be visibly marked out to include a buffer zone within which plant and machinery cannot operate.
7.	MISCO0	Any trees identified for removal that lie within the scheduled area or identified buffer zone shall not be extracted using heavy plant.

### Reasons for conditions

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.	HWAY00	In accordance with Policy CO2 of the North York Moors Local Plan and 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.	HWAY00	In accordance with Policy CO2 of the North York Moors Local Plan and in the interests of highway safety and the general amenity of the area.
5.	MISCO0	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.
6 & 7.	ARCH00	In order that any remains of archaeological importance can be adequately investigated and recorded before any development takes place on the site and to comply with Strategic Policy I and Policy and Policy ENV10 of the North York Moors Local Plan which seeks to conserve and enhance the historic assets and cultural heritage of the National Park.

## Informatives

Informative number	Informative code	Informative text
1.	INFO0	<p>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:</p> <p><a href="https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing__ind_est_roads__street_works_2nd_edition.pdf">https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing__ind_est_roads__street_works_2nd_edition.pdf</a></p> <p>The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.</p>
2.	MISCINF01	<p>Bats</p> <p>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.</p>
3.	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 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 <a href="http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/peciallyprotectedbirds.aspx">http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/peciallyprotectedbirds.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>

## Consultation responses

### Parish

Council has no objections to the application. It does however request that the plan dimensions etc. are checked so as to ensure the opposite (south west) verge will not be impacted by the turning vehicles. In the past similar turning areas have been constructed and while they have been fine for the side of the road on which they have been constructed, the size and turning circle of the HGV removing the timber has resulted on the verges on the opposite side of the road being turned into a muddy morass. Council does not wish to see this happen here. If there's a risk of this then either the verge should be stoned before use or it should be re-instated after use.

### Highways

Original plans - The new access would allow direct access from the site to the highway and the agreed forestry extraction route via Harwood Dale. Consequently recommend conditions.

Amended plans - Following receipt of amended layout details, there are no changes to the previous LHA recommendation dated 24th January 2022.

### Historic England

Original plans - Historic England has concerns regarding the application on heritage grounds.

The application site is immediately adjacent to two nationally important Scheduled Monuments:

- Round barrow on Flockrake Noddle, 550m SSW of Silpho Brow Farm, NHLE 1019625
- The Thieves' Dyke: prehistoric linear boundaries and associated features, NHLE 101962

A considerable part of the significance of these monuments lies in the currently unknown archaeological relationship between them and their visual relationship, and therefore the close proximity of the development proposal to the scheduled Bronze Age barrow is of considerable concern. The application in its present form does not include any provision for archaeological monitoring and supervision.

In order to reduce the harm to the nationally important scheduled monuments and their associated archaeological deposits, we recommend that:

A smaller and slightly rearranged footprint is to be used for the storage and turning area. The development area should be reduced by circa 30%, making it slightly narrower as well as shorter, and moving the turning spur further to the south west, so that it is a few metres closer to the road.

The development is to be subject to an archaeological condition ensuring monitoring of the clearance of the footprint including the verge access as well as the afforested area.

The developer is to appoint an archaeological contractor for this, with a Written Scheme of Investigation (WSI) to be agreed by your authority prior to commencement of the development.

It is to be a condition that the appointed archaeologist visibly marks out the limits of the scheduled remains, including a clear buffer zone within which plant cannot operate. This task should be included within the WSI.

### **Third party responses**

None received.

### **Publicity expiry**

Site notice expiry date – 02 February 2022.



General view of development site looking north-west. The public highway is visible in the left of the picture with the deep grass verge between the road and commercial forest in the right of the picture.



## Background

The application site is located in Broxa Forest on the east side of Swang Road between Suffield and Reasty Bank, approximately 300 metres south of the junction leading to Silpho.

There is no vehicular access to the site but there are a number of public footpaths and bridleways in close proximity. The site comprises a crop of Japanese larch and birch but also includes a deep grass verge and gorse shrubs which lie between the road and forest.

This application seeks full planning permission for the creation of a forestry vehicular access and turning area to the site in order to facilitate the removal of timber and specifically to deal with outbreaks of the disease *Phytophthora Ramorum* which has resulted in the issue of a Statutory Plant Health Notice. The access and turning facility will enable articulated timber lorries to enter the site, turn and leave the site without affecting normal road traffic. The estimated 600 tonnes of timber is anticipated to be removed over a 6 to 7 day period consisting of 4 loads per day.

The development site is within an area of archaeological importance close to nationally important scheduled monuments; round barrow on Flockrake Noddle, and the Thieves' Dyke (prehistoric linear boundaries and associated features).

## Policy Context

The relevant NYM Local Plan Policies to consider with this application are Strategic Policy A (Achieving National Park Purposes and Sustainable Development), ENV10 (Archaeological Heritage) and BL6 (Tracks).

SPA states that a positive approach to new development within the Park will be taken in line with the presumption in favour of sustainable development and where decisions are consistent with National Park Statutory Purposes (applying the Sandford Principle if necessary). Development will be supported where it: is a high quality of design which respects the local landscape and built heritage; supports the function and vitality of communities; protects or enhances natural capital and ecosystem services; maintains and enhances geodiversity and biodiversity through conservation; builds resilience to climate change; makes sustainable use of resources and; does not reduce the quality of soil, air and water in and around the National Park.

ENV10 states that development that would result in harm to the significance of a Scheduled Monument or other nationally important archaeological site will not be permitted unless it can be demonstrated that there are exceptional circumstances and public benefits outweigh the harm. The preservation of other archaeological sites will be an important consideration having regard to their significance. The Authority will seek the preservation of remains in situ but when this is not justified, the applicant will be required to make adequate provision for excavation and recording in advance of development, secured through an approved Written Scheme of Archaeological Investigation.

BL6 states that proposals to install, alter or extend tracks will only be supported where: the scale and alignment of the track and material will not have an adverse landscape impact; there is compelling evidence of a need for the track to directly support and established agricultural or forestry use; it

can be demonstrated that no existing roads or tracks are suitable and that alternative arrangements cannot be made to meet the need for the track; it can be demonstrated that there will not be an unacceptable impact on historic or archaeological features; works will not adversely affect ecological assets and; appropriate design, construction methods and materials are used to reduce the visual impact of the track.

## **Main Issues**

The main issues are considered to be whether the proposal, in its amended form adequately addresses the archaeological considerations and whether it is acceptable in landscape and highway safety terms.

The requirement for the development (i.e. to removed timber infected with disease) is understood and accepted. Since archaeological concerns were raised by the Authority's Head of Historic Environment and Historic England, the applicant has met on site to develop an amended scheme taking into account the archaeological features and making revisions to the proposal, whilst maintaining the required specification to allow lorries to safely access, turn and leave the site. The revisions include a shortened route into the forest, a relocated turning head and removing the taper on the south side of the access to provide greater clearance from the impact zone of the scheduled monument. The amendments have reduced the area of development by 259 square metres (from 890 sq.m. to 631 sq.m.).

The amended details were considered acceptable to the Authority's Head of Historic Environment and Historic England, subject to archaeological mitigation and a written scheme of investigation. Further request from the Head of Historic Environment included:

- That the development be subject to conditioned archaeological monitoring of the clearance of the footprint including the verge access as well as the afforested area. The developer will need to appoint an archaeological contractor for this, and the Authority will need to agree a written scheme of investigation prior to commencement of the development.
- I would advise that the appointed archaeologist visibly marks out the limits of the scheduled remains, including a clear buffer zone within which plant cannot operate. This task should be included within the WSI.
- The felling will include all conifers in the area around the scheduled barrow to reduce the risk of damage through windthrow, any conifers that lie within the buffer/scheduled area should not be extracted using heavy plant.

In addition to the above, the Parish Council also requested that dimensions are checked to ensure the opposite verge will not be impacted by the turning vehicles. If there is a risk the verge should be re-instated after use. The Authority's Ecologist has also identified that the verge to be crossed is recorded as being of botanical interest, which could be detrimentally affected by the proposals, not only from direct loss to the new access track and splay but also by vehicles trampling or damaging the surrounding areas during construction works. Consequently, it is recommended that a condition be added to prevent the storage of materials on the verge but where it is unavoidable, vegetation should be strip turfed and nurtured for replacement on completion of the works.

The Authority's Ranger has also identified that the area has previously been vulnerable to fly tipping and has requested that public access to the site is restricted so as to avoid further incidents.

The applicant has taken the above concerns into account and responded to advise that the design of the new entrance will allow timber lorries to turn out of the new facility without affecting the verge on the opposite side of the road. It is confirmed, however, that should there be any damage to the verges it will be reinstated on completion of timber haulage (timber hauliers will be made aware that damage to verges is to be avoided at all costs).

Forestry England also seeks to prevent cases of fly tipping and a barrier to prevent access to the turning area will be located approximately 18m from the edge of the highway to allow a timber lorry to park off the highway and unlock the barrier without causing an obstruction to traffic.

The amended application is considered to be of an appropriate scale and design for this sensitive area and will allow the removal of infected timber for the wider benefit of the forest. Subject to the recommended conditions, the proposal is not anticipated to result in undue landscape, ecological or archaeological harm and has satisfactorily addressed other areas of concern raised by the Parish Council. In view of the above, approval is recommended.

#### **Pre-commencement conditions**

Conditions 4 and 6 are pre-commencement conditions and have been agreed in writing with the applicant/agent.

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

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.