

Planning Inspectorate Reference:

APP/W9500/W/22/3305049

Local Planning Authority Reference:

NYM/2022/0353

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Ms Rachel Barker

Against: Refusal of planning permission for use of land for the siting of five shepherds huts for holiday letting purposes, removal of field shelter and construction of managers dwelling, use of field store to provide bike and waste storage facilities and associated access, parking, linkage paths, landscaping and drainage works (revised scheme following refusal of NYM/2021/0970/FL)

Location: land off Raikes Lane, Sneatonthorpe, Sneaton, nr Whitby

Statement by Local Planning Authority For Written Representations Appeal

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Appendix 1 – Suggested Conditions

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1.0 Introduction

1.1 This Statement refers to the refusal of planning permission for the use of land for the siting of five shepherd's huts for holiday letting purposes, along with the removal of an existing field shelter and construction of manager's dwelling. The proposal also includes the use of a field store to provide bike and waste storage facilities and associated access, parking, linkage paths, landscaping and drainage works.

1.2 The application was refused by North York Moors National Park Authority (NYMNPA) as the Local Planning Authority (LPA) on 23 June 2022.

2.0 Appeal Site and the Surrounding Area

2.1 The appeal site is situated in a remote location on the west side of Raikes Lane, approximately 5.5km to the south of the coastal town of Whitby, 2.5km southwest of the village of Hawsker and a similar distance southeast of the village of Sneaton.

2.2 Raikes Lane is situated just to the south of the hamlet of Sneatonthorpe which comprise a loose-knit development of farmsteads, with many of the barns now converted to living accommodation. The site is approximately 165 metres to the south of two farmsteads known as Beckside Farm and Russell Hall Farm.

2.3 The field to which this appeal relates has previously been used as grazing land for horses but there is no permanent or residential development on site, just field shelters.

2.4 The appeal site is a field bounded to the roadside by hedging and along the western boundary by a tree belt outside the application site. It is accessed via an existing field gate from Raikes Lane.

3.0 Relevant Site History

3.1 Pre-application advice was provided to the appellant by the Local Planning Authority in February 2021, in relation to the proposed erection of a dwelling on the appeal site. The appellant was provided with written advice, explaining that any application for a new dwelling would be assessed against Policy CO10 of the North York Moors Local Plan (NYMLP) which only supports new housing in the Open Countryside where there is an essential need for a dwelling in the proposed location to support established farming, forestry or other essential land management activities; where an existing dwelling is to be replaced in accordance

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with Policy CO14 (Replacement Dwellings); or where a rural building is of architectural or historic interest and is converted in accordance with Policy CO12 (Conversion of Existing Buildings in Open Countryside) of the NYMLP.

- 3.2 The appellant was advised that as there was clearly no justification for a dwelling to support an established farming, forestry or other land management enterprise, and wouldn't comprise a replacement dwelling or conversion of a building of architectural or historical interest, the proposal would be contrary to both local and national planning policy, and consequently, a planning application would be extremely unlikely to receive favourable consideration.
- 3.3 In February 2022 planning permission was refused (NYM/2021/0970/FL) for the use of land for the siting of 10 shepherds huts for holiday letting purposes, along with the use of existing field shelter and store to provide bike and wastewater storage facilities. Associated access, parking, linkage paths, landscaping and drainage works were also proposed.
- 3.4 The proposed shepherd's huts would measure 6m long x 2.5m wide by 3.8m high, each with a timber decking area bounded by picket fences. It was also proposed to re-use the existing field shelter and feed store as a bike store and waste storage area, with a loose stone hardstanding area to provide parking for 11 vehicles.
- 3.5 That application was considered by the Director of Planning and refused under powers delegated to him by the Planning Committee, on 2 February 2022 for the following reasons: -
1. The application site is not associated, physically linked, or adjoining the site of an existing business or 'managing dwelling' and as such the proposed development of tourism accommodation represents the development of an undeveloped isolated parcel of land in the open countryside which is likely to lead to development pressure for managers accommodation in the open countryside. Furthermore, the nature of the deciduous roadside hedge would be likely to result in poor winter screening of the site and not represent 'adequate well-established vegetation'. The proposal would therefore
 2. represent sporadic development and be contrary to the spatial requirements of Strategic Policy B and Policy UE2 of the adopted North York Moors Local Plan.
 3. The proposed development would, due to the introduction of lighting to serve the proposed facilities, result in significant light spill in the local area which would detrimentally affect the dark skies reserve of the National Park and negatively impact on nocturnal wildlife. The development would therefore

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conflict with Policy ENV4 of the NYM Local Plan which seeks to ensure that the darkness of the night skies above the National Park, and the associated ecology benefits, are maintained and enhanced.

4.0 Proposed Development and the Decision

4.1 The proposal to which this appeal relates seeks permission for 5 shepherds huts along with the demolition of the existing field shelter and replacement with a timber clad dwelling to be used as a unit of managers accommodation. The managers accommodation would comprise two bedrooms, bathroom, open plan kitchen/dining room and stairs up to an upper mezzanine. The feed store would be used as a bike store and waste storage and a gravel area created to provide parking for 9 vehicles.

4.2 The application was considered by the Director of Planning and refused under powers delegated to him by the Planning Committee, on 21 March 2022 for the following reasons: -

1. The application site is not associated, physically linked, or adjoining the site of an existing business or 'managing dwelling' and as such the proposed development of tourism accommodation represents the development of an undeveloped isolated parcel of land in the open countryside. Furthermore, the nature of the deciduous roadside hedge would be likely to result in poor winter screening of the site and not represent 'adequate well-established vegetation'. The proposal would therefore represent sporadic development and be contrary to the spatial requirements of Strategic Policy B and Policy UE2 of the adopted North York Moors Local Plan.
2. Policy C010 of The North York Moors Local Plan only permits new housing development in Open Countryside where there is an essential need to support established farming, forestry, or other essential land management activities. The application site is located within the open countryside and therefore would not comply with the criteria of Policy C010. If permitted, the proposal would represent 'sporadic' development in the countryside which would significantly harm the landscape character and special qualities of this part of the National Park. This would conflict with Strategic Policies A, B and M and Policy C010 of the NYM Local Plan which set out the spatial strategy for development and seek to conserve and enhance the special qualities of the National Park.
4. The proposed development would, due to the introduction of lighting to serve the proposed facilities, result in significant light spill in the local area which would detrimentally affect the dark skies reserve of the National Park and

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negatively impact on nocturnal wildlife. The development would therefore be in conflict with Policy ENV4 of the NYM Local Plan which seeks to ensure that the darkness of the night skies above the National Park, and the associated ecology benefits, are maintained and enhanced.

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).

5.3 The most relevant policies in the determination of this appeal are considered to be:

Strategic Policy A – National Park Purposes. This Policy seeks to take a positive approach to new development, in line with the presumption in favour of sustainable development and where decisions are consistent with National Park statutory purposes which are:

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

It goes on to state that where there is an irreconcilable conflict between the statutory purposes the Sandford Principle will be applied, and greater weight will be attached to the first purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park.

Strategic Policy B -The Spatial Strategy. This sets out the principle of development in the National Park according to spatial criteria. Development in the open countryside will only be permitted in relation to tourism development where it meets the requirements set out at Policy UE2 (set out below) and for residential development only where it meets the requirements of Policy CO10 (set out below).

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Strategic Policy M – Housing. This policy seeks to ensure the delivery of new homes to help meet the needs of local communities and be delivered through the development of sites allocated in the Helmsley Local Plan and in Policy ENV13, Environmental Enhancement Sites; through windfall development, including custom and self-build housing, on suitable small sites in listed settlements; through affordable housing schemes on rural exception sites and through proposals put forward in accordance with a Whole Estate Plan approved by the National Park Authority. However, to protect the open countryside from inappropriate housing development new housing will only be permitted if there are exceptional circumstances in terms of meeting the needs of essential rural workers.

Policy CO10 - Housing in Open Countryside. This policy seeks to ensure that in order to maintain the quality of the National Park landscape; housing development in the open countryside will only be permitted where there is an essential need to support established farming, forestry or other essential land management activities, where an existing dwelling is to be replaced; or where a rural building is of architectural or historic interest and is to be converted. Occupancy will be restricted to agricultural, forestry or other essential land management workers.

Strategic Policy J - Tourism and Recreation. This seeks to support such development where it is consistent with the principles of sustainable tourism, does not lead to unacceptable harm to the local landscape character or an ecological or archaeological asset; provides opportunities for people to increase their awareness, understanding and enjoyment of the special qualities of the National Park; is of a quality, scale and design that takes into account and reflects the sensitivity of the local landscape; any accommodation is used only for short term holiday stays; it does not compromise the enjoyment of existing tourism and recreational facilities or public rights of way.

Policy UE2 - Camping, Glamping, Caravans and Cabins. The policy states that development will only be permitted for small scale holiday accommodation (such as tents, pods, yurts, tepees, shepherd huts, cabins, chalets, caravans and motorhomes etc.) where it is within Helmsley or the main built up area of a settlement listed in the hierarchy outlined in Strategic Policy B and it is in close proximity to an existing residential unit which will be used to manage the accommodation, or; where it is in open countryside and is not isolated from an existing business or residential unit which will be used to manage the accommodation. The development must not cause unacceptable harm in terms of noise and activity on the immediate area or detract from the character, tranquillity

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or visual attractiveness of the area. The accommodation should be of a high-quality design which complements its surroundings.

Policy ENV4 - Dark Night Skies. This seeks to ensure that the darkness of the night skies above the National Park are maintained and enhanced and requires that all development will be expected to minimise light spillage through good design and lighting management.

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 an important 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 (NYMLP) was adopted on 27 July 2020 under the provisions of the Town and Country Planning (Local Planning)(England) Regulations 2012 and does not conflict with national policies in the NPPF. It is therefore up-to-date and should be the starting point for any planning decision making in the North York Moors National Park.

With regards to rural housing, Paragraph 78 of the NPPF seeks to promote sustainable development in rural areas, stating that housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive. Such provision is made in the NYMLP through Strategic Policy M (Housing).

The Government's commitment to the protection of National Parks is clearly set out in the NPPF (July 2021). Paragraph 176 says that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection.

Furthermore, whilst at the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 176 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.

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

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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

- 6.1 The primary considerations in this case are the impact of this sporadic form of development, comprising a new dwelling and tourism accommodation, on the character and appearance of the appeal site and its setting within a Nationally protected landscape.
- 6.2 The site is located well outside any settlement and comprises an essentially undeveloped grazing field in the open countryside, within a National Park and in such circumstances adopted and up-to-date Planning Policy should take precedence.
- 6.3 The proposal is to provide a new 2 bed dwelling in the form of a timber lodge to provide accommodation for the manager of 5 new shepherds huts on the site, to provide holiday accommodation.
- 6.4 Whilst Policies in the Local Plan seek to support small scale off-grid camping and glamping provision in open countryside, this is only in locations where they would not be harmful to the character and appearance of the landscape and can be managed by an existing dwelling on the site.
- 6.5 The intention of the policy is to allow for small scale and sensitively designed holiday accommodation to support local businesses and allow people to enjoy the special qualities of the National Park whilst avoiding sporadic development in unsuitable and unsustainable locations. The policy directs new holiday accommodation to areas where there is already an existing business or dwelling which can be used to manage the site. This could include on a farm or at a public house for example. This is to ensure there is adequate and active management of the site to prevent any local amenity issues such as noise or other disturbance from occurring, and also to avoid inappropriate levels of activity and structures in more isolated locations. For this reason, parcels of land isolated from the managing unit are not considered to be suitable locations for development.

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- 6.6 Local Plan Policy recognises the importance of preventing sporadic development in the open countryside on areas of land that are otherwise undeveloped or separate from existing development such as farmsteads or other businesses. Criterion 2 of Policy UE2 specifically states that in the open countryside (i.e., outside the main built-up area of listed settlements) such development must not be isolated from an existing business or residential unit which will be used to manage the accommodation.
- 6.7 The proposed construction of a new manager's unit of accommodation has been proposed in an attempt to overcome one of the reasons of refusal of the earlier 2021 application (referred to in paragraphs 3.3 to 3.5 above). However, the construction of a new dwelling in the open countryside is in itself contrary to the adopted Housing Policies in the NYMLP which seek to permit new housing in the open countryside only where there is a proven essential need for agricultural, forestry or other essential land management workers. The erection of a new dwelling within the open countryside where there is no agricultural or similar essential rural business need creates further conflict with the Local Development Plan, contrary to Strategic Policy M and Policy CO10.
- 6.8 In addition to being contrary to adopted Policies contained within the NYMPL, the proposal would also be contrary to Government policy contained within the NPPF, which also seeks to avoid new isolated homes in the open countryside unless there are special circumstances to meet the essential need of a rural worker. The proposed development does not meet any such criteria.
- 6.9 In terms of the siting of 5 shepherds huts, Policy UE2 referred to above states that development will only be permitted where it is not isolated from an existing business or residential unit which will be used to manage the accommodation and in order to respect the sensitivity of the local landscape, all sites must be screened by existing topography, buildings or adequate well-established vegetation which is within the applicant's control and where arrangements for its long term maintenance can be demonstrated. Furthermore, the development must not cause unacceptable harm in terms of noise and activity on the immediate area or detract from the character, tranquillity, or visual attractiveness of the area.
- 6.10 The visibility of the proposals would be further affected by its remoteness from existing built development with, in addition to parked cars, there would be additional moving traffic, possible play equipment, refuse bins, signage and the like all of which can affect the character and appearance of an area. These can harm the amenities of the locality.

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6.11 The site does not meet the criteria of Strategic Policy J or Policy UE2 as there is no residential unit or business currently on the site. Furthermore, the deciduous and single shrub nature of the roadside hedge would provide poor winter screening of the site and the shepherds huts, cars, lights and other associated paraphernalia would be visible and would harm the tranquillity and special qualities of this nationally protected landscape. This further reinforces the unacceptability of the proposal due to visual impact.

6.12 The North York Moors National Park is designated as an International Dark Sky Reserve. Whilst no details have been provided regarding potential lighting of the development, each hut would be provided with an external decking area and there is a separate parking area and bike and bin storage area. It is inevitable that all of these areas would be externally lit which would have a potential impact on the National Park's dark skies qualities as the site and its surroundings are at present entirely unlit.

7.0 Conclusion

7.1 In this case, the site comprises an undeveloped isolated parcel of land in the open countryside where there is no existing onsite residential accommodation from which to manage the development and limited roadside screening.

7.2 The land represents an existing undeveloped greenfield site and this proposal would result in sporadic development in the open countryside and would also be likely to be detrimental to the dark skies reserve above the National Park. The proposal is therefore contrary to the above policies and would have a harmful impact on National Park special qualities.

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 1 .

7.4 Please note also that a separate application for costs has also been submitted.

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APPENDIX 1

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. 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.
3. The unit of managers accommodation hereby approved shall not be occupied as a separate independent dwelling and shall remain as ancillary manager's accommodation to the shepherd hut business hereby approved and shall not be sold or leased separately.
4. No more than a total of 5 shepherds' huts shall be sited/pitched on site at any one time. The huts shall not be replaced with any other structure for holiday use
5. The shepherd's huts/pods/tents hereby approved shall not be used for residential purposes other than holiday letting purposes. For the purpose of this condition 'holiday letting' means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 days in any one calendar year
6. The development hereby permitted shall form and remain part of land associated with the managers accommodation hereby approved and shall not be sold or leased off from the main dwelling or let off except as holiday accommodation in accordance with the terms of condition 5 above.
7. 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.
8. Notwithstanding the provisions of Class B, Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking and re-enacting that order, no development required by the conditions of a site license shall be permitted without the granting of planning permission by the Local Planning Authority.
9. 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

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Planning Authority. The lighting shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.

10. The external surface of the roof of the buildings/huts hereby permitted shall be coloured and thereafter maintained dark grey and shall be maintained in that condition in perpetuity unless otherwise be agreed in writing with the Local Planning Authority.
11. The external elevations of the huts/buildings hereby approved shall be stained/painted a dark brown or dark grey and shall be maintained in that condition in perpetuity.
12. No trees, shrubs or hedges on the north, west and south boundaries of the site shall be felled, uprooted, wilfully damaged or destroyed, cut back or removed without the prior written consent of the Local Planning Authority. Any work approved shall be carried out in accordance with British Standard 3998:2010 Tree Work - Recommendations. If any retained tree/hedge is removed, uprooted, destroyed or dies within five years of the completion of the development, it shall be replaced with trees, shrubs or hedge plants of a similar size and species, unless the Local Planning Authority gives written consent to any variation.
13. The ancillary buildings hereby approved shall not, at any time, be used to provide overnight residential accommodation.
14. All flues associated with the proposed development shall be coloured matt black and maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
15. No work shall commence on the laying of any in preparation for the development hereby permitted until full details of the hardsurfacing to be utilised on the site have been submitted to and approved in writing by the Local Planning Authority, including a timetable to implement the proposed works. The hard landscaping works shall then be implemented in accordance with the approved details. The hard landscaping shall be maintained in perpetuity.
16. 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/or footway must be constructed in accordance with the Standard Detail number E50 and the following requirements.

- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing highway.

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- Provision to prevent surface water from the site/plot discharging onto the existing highway must be constructed and maintained thereafter to prevent such discharges.
- 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.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

17. If the use of the shepherd huts/pods hereby approved has ceased for a period of more than 18 months, from the date on which the development was substantially completed, the buildings shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before development took place unless planning permission for a further change of use of the buildings has been approved in writing by the Local Planning Authority