



NYMNPA

13/05/2024

North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

Telephone: 01439 772700
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Application for Removal or Variation of a Condition following Grant of Planning Permission or Listed Building Consent

Town and Country Planning Act 1990 (as amended); Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended)

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Site Location

Disclaimer: We can only make recommendations based on the answers given in the questions.

If you cannot provide a postcode, the description of site location must be completed. Please provide the most accurate site description you can, to help locate the site - for example "field to the North of the Post Office".

Number

Suffix

Property Name

Address Line 1

Address Line 2

Address Line 3

Town/city

Postcode

Description of site location must be completed if postcode is not known:

Easting (x)

Northing (y)

Description

The Quarterdeck YO224SN

Applicant Details

Name/Company

Title

Mr

First name

Graham

Surname

Kemp

Company Name

Ghyll Wood Developments Ltd

Address

Address line 1

Beacholme

Address line 2

Covet Hill

Address line 3

Robin Hoods Bay

Town/City

Whitby

County

North Yorkshire

Country

United Kingdom

Postcode

YO224SN

Are you an agent acting on behalf of the applicant?

Yes

No

Contact Details

Primary number

Secondary number

Fax number

Email address

Description of the Proposal

Please provide a description of the approved development as shown on the decision letter

The erection of a Tea Hut serving hot and cold refreshments and the construction of a 1.4m high Gabion basket retaining wall on land on the Quarterdeck. Robin Hoods Bay

Reference number

NYM/2018/0177/FL

Date of decision (date must be pre-application submission)

19/07/2018

Please state the condition number(s) to which this application relates

Condition number(s)

3. The tea hut hereby approved shall not be managed and controlled other than by the occupier (as their primary residence) of the adjacent dwelling known as Beacholme (Land Registry title NYK79184) and the application site shall not be sold or leased separately from Beacholme without a further grant of planning permission from the Local Planning Authority (with the proviso that the present ownership of the application site by Ghyllwood Developments Ltd is acceptable on the basis that the registered proprietor of Beacholme is also the controlling shareholder in Ghyll wood Developments Ltd). In the event that the tea hut is not managed and controlled by the occupier (as their primary residence) of Beacholme or is sold off separately or leased off separately from Beacholme (or the registered proprietor of Beacholme is no longer the controlling shareholder in the company owning the application site), the tea hut shall cease to operate and the tea hut structure be removed from the site within 12 months of the sale/lease separation (or company and/or share transfer) of the tea hut from the host property and the site should be fully restored to its former condition.

Has the development already started?

Yes

No

If Yes, please state when the development was started (date must be pre-application submission)

27/12/2018

Has the development been completed?

Yes

No

If Yes, please state when the development was completed (date must be pre-application submission)

01/03/2019

Condition(s) - Variation/Removal

Please state why you wish the condition(s) to be removed or changed

When the Tea Hut was first proposed in April 2018 there was a lot of local opposition to installing a takeaway facility on the sea front. Social media fueled and propagated the initial objections and when the plans were presented to the NYNP committee in June 2018, the members decided to arrange a full site visit, in order to fully evaluate the impact of the proposal, for themselves. They took all the many objections into consideration and in order to partly justify supporting our proposal, one committee member proposed that the operator of the Tea Hut should remain in the adjacent residence, known as Beacholme. This was seconded and the proposal was finally approved, with condition 2 of their approval in place. This condition specifically states that if the owner of the Tea Hut should ever vacate Beacholme, then then the Tea Hut must close and be demolished within 12 months. There was never any intention, or suggestion that Beacholme would be a part of the day-to-day operational running of the Tea Hut, it was purely applied to ensure that the presence of the new Tea Hut did not change, or impact on the enjoyment of the Quarterdeck in any way.

In reality, The Tea Hut has actually improved the area and the opening hours are well within those originally specified, in the approval. The public generally dictate opening and closing times, but this is normally around 9.30am until 5.00pm, daily.

At the time, condition 2 seemed like a sensible compromise, as a lot of objections related to a perception of potential noise and increased litter on the Quarterdeck. However, time has proved that neither of these came to fruition; there is now zero litter in the area and with our additional investment in landscaping, it makes the Quarterdeck a much more pleasant place to be. There have been no concerns raised from nearby properties in the past 5 years and a lot of the original objectors now say the Tea Hut and its sleek curved roof design has actually improved the area. Indeed, we have heard on many occasions; "we never imagined it would look as nice as this".

If you wish the existing condition to be changed, please state how you wish the condition to be varied

I would like condition 2 of the planning approval removed, in order to give me the flexibility, if and when, I wish to move from Beacholme and still retain the Tea Hut, which would keep the local staff we employ in employment.

I am now in my 76th year and with a very early diagnosis impending joint issues, I need the flexibility to forward plan my future life, in a location somewhere more practicable, before that decision is taken from me.

Whilst Condition 2 remains in place, my only option is to stay at Beacholme, which is 4 floors high and its' only access is by a set of 30 steps from the nearest road. The alternative, would be to move out and close the Tea Hut, making all 7 staff redundant. We employ 2 full time and 5 part time, all of whom are local people, who rely on local employment and are able to walk to work. This is a model and enviable criteria for any coastal business. The Tea Hut is now highly popular with both locals and holiday makers and we are constantly complimented on both quality of food and drink and the service we offer; we are proud of our 5 star rating, for reviews on Trip Advisor.

Please take the following policies into consideration, when determining this planning application:

- Strategic Policy J: Tourism and recreation

- * The development has proved there is no unacceptable harm to the local landscape character
- * The quality and scale of the operation/business takes into account and reflects the sensitivity of the local landscape.
- * The business does not compromise the enjoyment of existing tourism and recreational facilities or public rights of way. The hut stands alone and provides a unique place to enjoy the landscape from.
- * The business has been going for some years now and feels part of the landscape. It has not led to unacceptable harm in terms of noise and activity to the immediate neighbourhood.

- Policy UE3 - Loss of existing Tourism and Recreation Facilities

- * If the condition tying the hut to the house was not in place, consent would be needed to remove it.
- * This Policy is based on the NYMNP accepting the importance that tourism and recreation to the economy.

- Strategic Policy K- The rural Economy.

- * The key objective is to protect employment opportunities and support business enterprises.
- * Encourage a sustainable and prosperous economy with businesses that are appropriate. The Galley on the Quarterdeck certainly is and has proved popular.
- * Policy K promotes protecting existing businesses, maintain and increase job opportunities etc.

- Policy BL8 - Shops, offices and Food & Drink Services.

- * This policy generally supports new retail development. It highlights that the loss of retail, if such a condition was not in place, would only be permitted if it was demonstrated robustly that the facility is no longer suitable.
- * Balance between provision for convenience services and retailing for tourism is noted. This development and the opening hours have managed to achieve this balance.

Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

- Yes
 No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact?

- The agent
 The applicant
 Other person

Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

- Yes
 No

Ownership Certificates and Agricultural Land Declaration

Certificates under Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

Please answer the following questions to determine which Certificate of Ownership you need to complete: A, B, C or D.

Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days?

- Yes
 No

Is any of the land to which the application relates part of an Agricultural Holding?

- Yes
 No

Certificate Of Ownership - Certificate A

I certify/The applicant certifies that on the day 21 days before the date of this application nobody except myself/ the applicant was the owner* of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding**

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural holding" has the meaning given by reference to the definition of "agricultural tenant" in section 65(8) of the Act.

NOTE: You should sign Certificate B, C or D, as appropriate, if you are the sole owner of the land or building to which the application relates but the land is, or is part of, an agricultural holding.

Person Role

- The Applicant
 The Agent

Title

Mr

First Name

Graham

Surname

Kemp

Declaration Date

13/05/2024

Declaration made

Declaration

I/We hereby apply for Removal/Variation of a condition as described in the questions answered, details provided, and the accompanying plans/drawings and additional information.

I/We confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

I/We also accept that, in accordance with the Planning Portal's terms and conditions:

- Once submitted, this information will be made available to the Local Planning Authority and, once validated by them, be published as part of a public register and on the authority's website;
- Our system will automatically generate and send you emails in regard to the submission of this application.

I / We agree to the outlined declaration

Signed

Graham Kemp

Date

13/05/2024