

Planning Inspectorate Reference:  
Local Planning Authority Reference:

APP/W9500/W/16/3166289  
NYM/2016/0349/FL

## **North York Moors National Park Authority**

Town and Country Planning Act 1990

Appeal by: **Malcolm and Pauline Armstrong**

Against: **Refusal of planning permission for conversion of and extension to stable/garage/studio building to form 2 no. holiday letting cottages with associated landscaping works**

Location: **Rock Haven, Newlands Road, Cloughton**

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### **Statement by Local Planning Authority For Written Representations Appeal**

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For North York Moors National Park Authority

## **1.0 Introduction**

- 1.1 This Statement refers to the refusal of a planning application for conversion of and extension to a timber stable, garage and studio building to form two holiday letting cottages with associated landscaping works, by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA) on 22 September 2016.

## **1.2 Site and Surroundings**

- 1.3 The village of Cloughton is located approximately 8km north of Scarborough. The National Park boundary cuts through the village with the main built up part of the village being located outside the National Park. The appeal site is located approximately 1km north of the main built up part of the village within the open countryside.
- 1.4 The appeal property, Rock Haven, is a substantial and attractive Edwardian style property set in extensive grounds. The dwelling itself has no immediate neighbours, although there is a detached residential annexe/flat located at first floor in the adjacent 2-storey garage building, within the curtilage of, and in the same ownership as Rock Haven.
- 1.5 There is a loose ribbon of development along Hood Lane to the North West and along Newlands Road to the south.
- 1.6 The grounds at Rock Haven have been, in part, heavily landscaped to create a formal garden but a good mix of woodland and pasture still exist at the site. A belt of mature and dense woodland splits the formal garden (in front of the house) from the informal garden and pasture to the east.

## **2.0 Relevant Site History**

- 2.1 Prior to the appeal application being submitted, a planning application was submitted in 2010 for the construction of a double garage and stabling for two horses, together with associated tack and feed storage and first floor studio space for hobbies and crafts.
- 2.2 Pre-application advice had been sought for that application and following Officer negotiations, the overall size was reduced and a proposed balcony removed on account of its overly domestic character and appearance. The application as submitted originally included a large dormer on the east elevation and this was also negotiated out of the scheme before it was approved.
- 2.3 The Parish Council objected to that application on the basis that it was not close to the

main house and the garage/studio element was considered to be excessive. They also expressed concerns that there would be a future application to convert the building into residential, office or holiday accommodation.

- 2.4 In response to the concerns expressed by the Parish Council the applicant's agent stated that they would expect the future use to be enforced by robust conditions being placed on the approval), and that his clients welcomed such a restriction. They also offered reassurance that the w.c. was to service the studio and stables.
- 2.5 That application was approved with conditions attached to restrict the use to domestic storage incidental to the occupation of the main dwelling.
- 2.6 The application met the criteria of Development Policy 19 which requires that equestrian buildings should be closely related to the domestic curtilage. Given its location immediately adjacent to the garden, this policy requirement was considered to be met.
- 2.7 In 2013, planning permission was sought for the conversion of and alterations to the building to form residential annex accommodation, set within its own curtilage and served by its own separate access taken from an existing field gate and across a grass verge, at the southern end of the site, across the open paddock land.
- 2.8 The application was refused by the National Park's Planning Committee, because the proposal did not accord with Development Policies 8 and 19 or Core Policy J of the NYM Local Development Plan as the detached annex was considered to be effectively a new independent dwelling set within its own curtilage and with its own separate vehicular access and was not a traditional building of historic importance. Also, the engineering works required to enable the proposed access to meet highway safety standards would have a significant impact on the rural character of the locality.
- 2.9 The applicant appealed that decision and the appeal was dismissed with the Inspector concluding that even though the proposal would allow a more efficient use of an underused building, the proposal sat uncomfortably with national guidance and local planning policies and would have serious harm to the character of the area (decision submitted with initial questionnaire documentation).

### **3.0 The Proposal and the Decision**

- 3.1 The planning application was validated on 12 May 2016.
- 3.2 Planning permission was sought to convert the garage and stables into two holiday units. It was proposed to retain the existing footprint but to extend the existing canopied area over the stables and tack room with a glazed veranda area, with the road facing elevation remaining unchanged.

- 3.3 In terms of accommodation it was proposed to create one holiday unit in the existing garage/studio part of the building, providing two bedrooms, kitchen and dining room with studio/living area above, and a second unit in the stable area, to provide one bedroom and living/kitchen area with second bedroom above.
- 3.4 The Highway Authority expressed concerns regarding inadequate visibility splays from the existing access. This comprised improving the existing visibility and providing space for vehicles to pull off the carriageway, by lowering or setting back of the current gates and the wall to either side, allowing vehicles to see and be seen when looking north.
- 3.5 The scheme was amended to meet the Highway Authority's requirements with the proposed removal of the gates and the boundary wall being reduced in height to 900mm for 15m each side of the existing access.
- 3.6 The application was refused on 22 September 2016 by the National Park's Planning Committee, for the following reason:
1. *In the view of the National Park Authority the proposed extension and addition of large areas of glazing would have a detrimental impact on the simple character of the building and would increase its visual prominence in the landscape, to the detriment of views into the site and the character of the area. In addition, the works required to reduce the height of the front boundary wall, in order to enable the proposed access to meet highway safety standards would have a detrimental impact on the street scene. The proposal would therefore be contrary to Development Policy 3 of the NYM Local Development Framework, which seeks to maintain and enhance the distinctive character of the National Park.*

#### 4 Planning Policy Background

- 4.1 This section covers both the Development Plan and the general implications of location in a National Park.
- 4.2 **Location in the National Park.** The two purposes of the National Parks in England and Wales were originally stated in the 1949 National Parks and Access to the Countryside Act and were revised in the 1995 Environment Act and are re-stated in the English National Parks and the Broads UK Government Vision and Circular 2010.

***National Park Purposes:***

- *"to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks" and*

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- *"to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public".*

In pursuing these purposes the National Park Authority also has a duty to seek to foster the economic and social well-being of local communities within the National Park.

When these purposes are in conflict the 'Sandford principle' confirms that **greater weight should be given to the conservation of the landscape** (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: 'National Parks' DoE, 11 September 1996.

- 4.3 Section 62(1) of the Environment Act places a requirement for all 'relevant authorities, statutory undertakers and other public bodies' to have regard to the purposes of National Parks in exercising or performing any functions in relation to or so as to affect land in a National Park. The importance of National Park purposes is therefore given legal support in addition to government policy in the determination of this appeal.
- 4.4 At the time of decision, the Development Plan for the area formally consisted of:
- **The North York Moors Local Development Framework Core Strategy and Development Policies.** Adopted by the NPA on 13 November 2008 (see paragraph 4.9).
  - **The Helmsley Local Plan.** Adopted by the NPA in July 2015
  - **The Whitby Business Park Area Action Plan:** Adopted by the NPA in November 2014.
- 4.5 **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 NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The Core Strategy and Development Policies document was adopted on 11<sup>th</sup> November 2008 under the provisions of the 2004 Act and is therefore up to date and should be the starting point for any decision making in the North York Moors National Park.
- 4.6 The Government's commitment to the protection of National Parks is clearly set out in the NPPF. Paragraph 115 says that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in

relation to landscape and scenic beauty. Furthermore, the NPPF, in Footnote 9, also confirms that the Framework specifically indicates that development, including the “presumption in favour of sustainable development” should be restricted within a National Park. It is clear that the NPPF expects a different approach to be taken in National Parks to both plan making and decision taking compared with other areas outside of designated National Parks.

- 4.7 The National Planning Policy Framework sets out that economic growth should be supported in rural areas to promote a strong rural economy, rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. This however needs to be balanced against the specific policy protection afforded to National Parks in paragraph 115 and footnote 9 as set out in paragraph 4.6 above. The support for economic development in National Parks must therefore be delivered within the concept of sustainable development as set out in the English National Parks and Broads Circular 2010 which at paragraph 29 states:

*“ Within the Parks, conserving and enhancing the landscape biodiversity, cultural heritage, dark skies and natural resources, and promoting public understanding and enjoyment of these should lie at the very heart of developing a strong economy and sustaining thriving local communities.”*

- 4.8 Whilst the proposal might be of benefit to the appellant, it is not considered that this proposed development would benefit the wider rural economy or the local community and would not respect the open character of the immediate locality of this part of the National Park and thus conflicts with the National Planning Policy Framework.

- 4.9 Local Development Framework: The relevant policies are:

- Development Policy 3 - Design
- Development Policy 14 - Tourism and recreation

Development Policy 3 seeks to maintain and enhance the distinctive character of the National Park by ensuring that the siting, layout and density of development preserves or enhances views into and out of the site; and that there is satisfactory landscaping and that the design takes into account the safety, security and access needs for all potential users of the development.

Development Policy 14 seeks to ensure that new tourism development will be supported where the proposal will provide opportunities for visitors to increase their understanding, awareness and enjoyment of the special qualities of the National Park; where the development can be satisfactorily accessed from the road network (by classified roads) or

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by other sustainable modes of transport including public transport, walking, cycling or horse riding; where the development will not generate an increased level of activity; and where it will make use of existing buildings. New buildings are expected to demonstrate why the facility cannot be accommodated in the existing building. A fundamental criteria of this policy is that any development does not undermine the special qualities of the National Park.

This LDP Policy and supporting text have been supplied for the Inspector, with the questionnaire.

## 5.0 Local Planning Authority's Case

- 5.1 The key issues are considered to be whether the size of the proposed extension and addition of large areas of glazing would have a detrimental impact on the simple character of the building, and increase its visual prominence in this nationally protected landscape to the detriment of views into the site and the character of the area. Furthermore, whether the works required to reduce the height of the front boundary wall would have a detrimental impact on the street scene.
- 5.2 The principle of the change of use to holiday accommodation is considered to be in accordance with Development Policy 14 of the Local Development Plan as the proposal is situated close to a number of bridleways, footpaths and the Cinder Track and therefore in a location where visitors have opportunities to increase their awareness, understanding and enjoyment of the special qualities of the National Park. Consequently, a further issue for consideration is whether these concerns could be overcome by reducing the intensity of the proposal to one single unit of holiday accommodation which would then remove the need for an extension or the same extent of glazing, proposed to create two holiday units.
- 5.3 The building as originally constructed is of a functional design with a very limited amount of glazing, so the elevations facing towards the open countryside and the "Cinder Track" cycleway/footpath and the Cleveland Way National Trail beyond sits discretely into the wider landscape. It is not unduly intrusive when viewed from the "cinder track" as the clay pantiles and timber clad elevations result in a subdued appearance.
- 5.4 The application was amended during the consideration of the proposal and the size of the extension and the level of glazing was reduced. The full height glazing to the gable window was reduced with the use of timber clad dwarf walling and the replacement of the large glazed canopy area with a smaller glazed extension with timber shutters incorporated to help conceal the glazing when the building wasn't in use.

- 5.5 However, it was the view of the Authority that the extent of glazing would still have a detrimental impact on the simple character of the building and due to both its domestic appearance and likely levels of reflection, have a detrimental impact on the character of the locality, as it would significantly increase the prominence of the building in the immediate and wider landscape. It was also considered that the use of shutters would only have a limited effect, as they would not be closed when the accommodation was occupied, which would then result in the additional impact of light pollution in this area well known and valued for its dark night skies.
- 5.6 It was also the view of the Authority that the works required to improve visibility for the two additional units of accommodation, which comprised reducing the height of the front boundary wall would have a significant and detrimental impact on the street scene.

## 6.0 Conclusion

- 6.1 The LPA does not consider that the proposal satisfies the requirements of local policy and considers that planning permission should not be given. It is not considered that the proposal can be satisfactorily accommodated within the locality without resulting in an adverse impact on the character of the area for the reasons set out above.
- 6.2 The proposal would therefore conflict with National Park purposes, and is not considered to comply with Development Policies 3 and 14 of the NYM Local Development Framework, both of which seek to maintain and enhance the distinctive character and not undermine the special qualities of the National Park.
- 6.3 As stated in 4.2 above, policies and decisions that could have an impact upon National Parks have to take the two National Park purposes into consideration. If there is conflict between the two purposes, the first must take precedence. It is therefore considered that, due to the likely adverse impact upon the open character of this part of the National Park which is popular with visitors, the proposal is in conflict with the first statutory purpose.
- 6.4 Therefore the LPA respectfully requests that the Inspector dismisses the appeal. However, should the Inspector be mindful to allow the appeal, a list of conditions which the LPA would wish to see imposed are attached at Appendix A.



## APPENDIX A

### Proposed Conditions:

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 dwelling unit 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.
4. The holiday unit hereby permitted shall form and remain part of the curtilage of the existing dwelling known as Rock Haven 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 3 above without a further grant of planning permission from the Local Planning Authority.
5. 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 Planning Authority. The lighting shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.
6. No external paraphernalia shall be installed in the development hereby permitted until details of paraphernalia have been submitted to and approved in writing by the Local Planning Authority. The external paraphernalia shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.
7. All new stonework used in the development hereby permitted shall match that of the existing building including the colour and texture of the stone and the method of coursing and pointing unless otherwise agreed with the Local Planning Authority.
8. All new window frames, glazing bars, external doors and door frames shall be of timber construction and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
9. The external face of the glazing in the veranda extension shall be set back in a reveal of a minimum of 20mm from the front face of the adjacent window/door frame and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.

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10. Prior to the development hereby approved being first brought into use, automatically opening mechanisms for the entrance gates shall be installed details of the means of opening the entrance gates shall be submitted to the Local Planning Authority for approval and thereafter shall be so maintained.
11. No work shall commence to clear the site in preparation for the development hereby permitted until a scheme for draining foul water from the development has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be brought into use until the treatment plant has been installed and is operational in accordance with the approved details.
12. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
  - i) Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
  - ii) The final surfacing of any private access within 5 metres of the public highway shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

#### Informative

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

13. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 160 metres measured along both channel lines of the major road Newlands Road from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
14. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s)

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or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- a. vehicular, cycle, and pedestrian accesses
- b. vehicular and cycle parking
- c. vehicular turning arrangements

**Informatives**

The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at [www.northyorks.gov.uk](http://www.northyorks.gov.uk)

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.