

North York Moors National Park Authority

District/Borough: Scarborough Borough Council
(North)
Parish: Fylingdales

Application No. NYM/2018/0558/FL

Proposal: variation of condition 2 (material amendment) to allow erection of business name board and alteration to design of door and condition 4 to allow the sale of any cold food/drinks of planning approval NYM/2018/0177/FL

**Location: land in front of Beacholme on Quarterdeck
Covet Hill
Robin Hoods Bay**

**Decision Date: 26 October 2018
Extended to:**

Consultations

Parish – Original plans - The Parish Council objects to this application because the sign on the roof is too intrusive, the application does not state which is the half door and there is too wide a range of food for sale.

Amended plans - Concerns about 'any' food being sold resulting in the subsequent rubbish. The bins are already full to over flowing. Door and sign better than they were. Concerns expressed about the continuing changes to the application

Highways – No objections

Yorkshire Water -

Environmental Health Officer - I wouldn't generally have any concerns about the sale of cold foods and if any problems did arise with waste, smell, pests etc then we could deal with these under food hygiene legislation. However, maybe the following could reduce the likelihood of any problems arising:

- The waste from the Tea Hut must be removed from the premises every night and disposed of in the correct manner
- The Tea Hut must provide a litter bin in the vicinity of the area
- The occupants of the Tea Hut could have a waste management plan whereby they ensure that any waste/litter in the vicinity of the area is removed each evening.

North Yorkshire Police – In relation to designing out crime, no comments

Advertisement Expiry Date – 12 October 2018

Others –

Mark Hanretty, Little Pearl in Robin Hoods Bay - **Support** as the proposals will be of benefit to the local area.

Gaynor Barnes, Laural Bank, 47 Hough Top, Leeds – Support.

David and Victoria Lofthouse, Clifforyd, Covet Hill, Robin Hoods Bay – Support.

The variations will enhance the design of the building and the expansion of the cold food/drinks offer will afford an increased opportunity to have a variety of cold food/drinks available.

Neville Cook, 86 Mill View Road, Beverley - Support

Mr Neil Purves of Willowdene, Church lane, Fylingthorpe – Object to the stable door as if this is left open or does become a serving hatch this will be a nuisance if left open to people that live nearby and visitors who are sat on the memorial benches. I note conditions were placed on the planning application as to what can be sold and these are now wanting to be changed, as the conditions were placed by the National Parks I think they should be kept. The original tiny seasonal Tea Hut from the past selling tea and crisps this development was supposed to be reproducing appears to be turning into a fully blown takeaway to the detriment of the village.

Mrs Suzy Purves of Willowdene, Church lane, Fylingthorpe – Object. If the top side door is to be left open or used as a serving hatch this could lead to potential nuisance and annoyance to the residents with noise and smells coming from the from the new opening. As it stands the overhanging roof should mask the potential noise from the proper front opening and it also faces out to sea. A hanging sign under the roofs overhanging front lip would look better than altering wave like roof profile. I would also like to strongly object to the variation of condition 4 to be able to sell any cold food and drink as the national parks placed the present conditions and extensive list of items that can be sold for a reason. I note that reasons given by the National Parks planning for condition 4 was NYM core policy A and NYM development policy 3, which "seek to enhance and conserve the special qualities of the NYM national park and ensure the development does not have an adverse effect on the amenities of local residents, The local community and visitors". And so I think to remove or change the conditions would have an adverse effect and therefore go against this policy.

L Houlston of Holly Barn, Glaisdale - Object to stable door as when open and serving it may be a nuisance to people living nearby. Object to variation of conditions to sell food and drinks as was put on by national parks to stop over development.

Mr Zahid Khan of 4 Crescent Terrace, West Cliff, Whitby – Object. Would be unfair to change conditions that were placed on this very controversial plan. The side opening door is a bad idea as it will no doubt become a serving hatch causing more annoyance. If it doesn't become a serving hatch, it will spread noise etc. from the takeaway to the side properties and area.

Miss Emily Baker of 2 Beck Holme, Sleights – Object. Strongly object as it will cause annoyance to the villagers if there is an open side door or serving hatch allowed to the side with extra noise and smells. I also wish to object to the variation to condition 4 to allow the applicant to sell any cold food/drink as I believe this will lead to further over development of this conservation area.

Mrs Tanya Kipling of 2 Beck Holme, Sleights – Object to changing the conditions as they were put in place by the National parks for a reason and to be able to keep going back to remove or change them defeats the object of the conditions.

Mrs Holly Gray of 6 Laburnum Avenue, Robin hoods bay, Whitby – Object. How is this new build allowed bi-folding doors and what now looks like a serving hatch? If you do allow this I ask you to put in a condition to which he cannot serve food from it. The new sign proposed is so big that it's losing the wave design that you all liked so much in the first place.

Mrs Elizabeth Gerhardsen of 11 Glen Close, Scalby – Object. There were many restrictions placed on the proposal and these must be upheld and no alteration allowed. The restrictions which the planning department put in place were done so for very good reason. These decisions must not be flouted.

Director of Planning's Recommendation

Approval subject to the following condition(s):

1.	TIME15	The development hereby permitted shall be commenced before the 19 July 2021
2.	PLAN02	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.	RSU00	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 Ghyllwood 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 shall 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.

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4.	RSU00	<p>The premises shall not be used other than as tea hut (selling only the foodstuffs listed below) and shall not be used for any other purpose (including any other purpose in Class A5 of the Schedule to the Town and Country Planning (Use Classes) Order 2010 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, or within Schedule 2, Part 3, Classes A-V of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order).</p> <p>The following hot food and drinks and equipment: Hot drinks Soups Hot Sandwiches Toasted Panini Toasted Sandwiches American style Hot Dog Pizza Slices Warm freshly baked scones Donuts machine, Waffle toaster, Crepe griddle Small table top fryer not exceeding 8Ltrs capacity</p> <p>Any cold food and cold drinks</p>
5.	GACS06	<p>The Tea Hut hereby permitted shall not be open to customers outside the hours of 0900hrs to 1830hrs on any day. Any variation to these hours will require a new grant of planning consent from the Local Planning Authority.</p>
6.	MATS00	<p>No work shall commence on the construction of the roof of the development hereby permitted until details of the roof material, including samples if so required by the Local Planning Authority, to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The roof material used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.</p>
7.	MATS26	<p>The external elevations of the Tea Hut hereby approved shall, within three months of first being brought into use, be clad in horizontal timber boarding and shall thereafter be so maintained unless otherwise agreed in writing by the Local Planning Authority.</p>
8.	MATS28	<p>No work shall commence on the timber cladding of the development hereby permitted until details, including the design and fixing of the timber cladding including samples if so required have been submitted to and approved in writing by the Local Planning Authority. The materials used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.</p>
9.	MATS30	<p>No work shall commence on the installation of any door in the development hereby approved until detailed plans showing the constructional details and external appearance of all external doors and frames (and glazing if included) have been submitted to and approved in writing by the Local Planning Authority. All doors shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority</p>

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10.	MATS40	No work shall commence on the installation of any replacement or new windows (and glazing if included) in the development hereby approved until detailed plans showing the constructional details of all window frames to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Such plans should indicate, on a scale of not less than 1:20, the longitudinal and cross sectional detailing including means of opening. The window frames shall be installed in accordance with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
11.	LNDS01	Prior to the development being brought into use details of a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for planting of the stone gabions and excavated area and shall include details of any existing hedges and trees to be retained on the site together with any measures for managing/reinforcing these and shall specify plant species, sizes and planting densities for any new areas of planting. The approved details shall be carried out no later than the first planting season following the occupation of the buildings, or completion of the development, whichever is the sooner, or in accordance with a programme agreed by the Local Planning Authority. The approved landscaping scheme shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
12.	LNDS10	No work shall commence to clear the site 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 unless otherwise agreed in writing by the Local Planning Authority.
13.	LNDS00	No work shall commence on the installation of the stone gabion baskets until full details of stone to be used have been submitted to and approved in writing by the Local Planning Authority. The stone gabions shall then be installed in accordance with the approved details and shall be maintained in that condition in perpetuity. For the avoidance of doubt, the height of the gabion wall shall not exceed 1.4m above the ground level where the cabin is to be sited
14.	MISC00	No work shall commence on the installation of the waste bin until full details of the location and appearance of bin have been submitted to and approved in writing by the Local Planning Authority. The bin shall then be installed in accordance with the approved details and shall be maintained in that condition in perpetuity.
15.	MISC00	No work shall commence on site to level the land until a statement detailing the method of excavation has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for details of the stages of excavation and machinery used. The work shall not be carried out otherwise than in accordance with the details so approved

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16.	DRGE02	No work shall commence on excavation works to install drainage to serve the development hereby permitted until full details of the proposed means of surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the drainage works have been completed in accordance with the approved details.
17.	DRGE00	Any land drainage uncovered in the works hereby approved shall remain in place and/or be diverted to the satisfaction of the Local Planning Authority
18.	DRGE00	Development shall not commence until measures designed to protect the 1800mm diameter sewer and 300mm diameter overflow pipe that are laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local planning Authority. Furthermore, the protection measures shall apply to all phases of the development

Informatives

1. Please note that any advertising will require separate advertisement consent and that no advance signage should be displayed in relation to this development.
2. Please note that the footpath/track situated to the east and south of the development site hereby approved must be kept free from obstruction and open for use at all times before, during and after any works.
3. Please note that you will require the land owners consent to re-locate the benches which are situated on the Quarterdeck.
4. The applicant should liaise with Scarborough Borough Councils Refuse services to establish whether they will collect rubbish from an additional bin.
5. On the Statutory Sewer Map, there is 1 no. 1800mm diameter public combined sewer and 1 no. 300mm diameter Yorkshire Water maintained overflow pipe recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. If the developer cannot provide a 5 (five) metre building standoff either side of this infrastructure (i.e. a protected strip width of 10 (ten) metres), a Formal Build Over agreement will be required with Yorkshire Water as the proposal is outside the scope of Part H4 of Building Regulations. The intention of this legal agreement is to protect the public sewer network and safeguard Yorkshire Water's interests and is required before the development is allowed to commence.

The developer will be responsible for all costs involved. A restricted strip will be required for future replacement of the pipeline and the building over of any access point(s) on the pipeline will not be permitted.

In order to begin this process, Yorkshire Water require the following:

" Seven copies of a layout drawing showing proposed works together with the position of the public sewer(s)

" The full contact details of the applicant's solicitor

" A method statement and drawing indicating how the public sewer is to be protected at all times during the works

A payment of £500.00 + VAT. This covers Yorkshire Water's administration costs. If other costs are incurred, (e.g. sewer pre-cleansing, monitoring of remedial works) then the applicant will have to pay a sum of money before the agreement is signed. Please note that the costs of Yorkshire Water's solicitor are not included in this. The developer will also have to pay the costs of Yorkshire Water's solicitor.

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6. It is noted from the submitted planning application that surface water is proposed to be drained to watercourse. Please note further restrictions on surface water disposal from the site may be imposed by other parties. You are strongly advised to seek advice/comments from the Environment Agency/Land Drainage Authority, with regard to surface water disposal from the site. The landowners consent will be required for the construction of a new outfall structure. As surface water from the site is not proposed to discharge to the public sewer network no assessment of the capacity of the public sewers to receive surface water has been undertaken. Should the surface water disposal proposals change further consultation with Yorkshire Water will be required.

Reason for Condition(s)

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 Core Policy A and NYM Development Policy 3, which seek to conserve and enhance the special qualities of the NYM National Park.
3.	RSUO00	In order to enable the Local Planning Authority to retain control over future changes of use to the property which would otherwise be permitted by the Town and Country Planning (Use Classes) Order 2010 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order) or the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), and to ensure adequate site security, and management of deliveries and litter/waste, to comply with the provisions of NYM Core Policy A and NYM Development Policy 3, which seek to enhance and conserve the special qualities of the NYM National Park and ensure that development does not have an adverse effect on the amenities of adjoining occupiers.
4.	RSUO00	In order to enable the Local Planning Authority to retain control over the scale and nature of the takeaway use to of the tea hut and its setting which would otherwise be permitted by the Town and Country Planning (Use Classes) Order 2010 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order) or the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), and to comply with the provisions of NYM Core Policy A and NYM Development Policy 3, which seek to enhance and conserve the special qualities of the NYM National Park and ensure that development does not have an adverse effect on the amenities of local residents, the local community and visitors.
5.	GACS01	In order to comply with the provisions of NYM Core Policy A which seeks to ensure that new development does not detract from the quality of life of local residents.
6.	MATS01	For the avoidance of doubt and in order to comply with the provisions of NYM Core Policy A and NYM Development Policy 3 which seek to ensure that building materials are of a high quality and compatible with the character of the locality and that the special qualities of the National Park are safeguarded.

7-10.	MATS02	For the avoidance of doubt and in order to comply with the provisions of NYM Core Policy A and NYM Development Policy 3 which seek to ensure that the appearance of the development is compatible with the character of the locality and that the special qualities of the National Park are safeguarded.
11.	LNDS01	In order to comply with the provisions of NYM Development Policy 3 which seeks to ensure that new development incorporates a landscaping scheme which is appropriate to the character of the locality and retains important existing features.
12&13.	LNDS03	In the interests of the satisfactory appearance of the development and in order to comply with the provisions of NYM Development Policy 3 which seeks to ensure that development proposals incorporate suitable hard landscaping details.
14&15.	LNDS00	For the avoidance of doubt and in order to comply with the provisions of NYM Core Policy A and NYM Development Policy 3 which seek to ensure that the appearance of the development is compatible with the character of the locality and that the special qualities of the National Park are safeguarded.
16&17.	DRGE01	To avoid pollution of watercourses and to comply with the provisions of NYM Development Policy 1, which seeks to ensure that new development has satisfactory provision for the disposal of foul and surface water.
18.	DRGE00	In order to ensure that the public sewer can be effectively maintained and to protect public health



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Background

The Quarterdeck comprises the concrete area which has been created by the sea wall defences at the bottom part of Robin Hoods Bay. This area provides an alternative access to the beach than the slipway and also access to the permissive path that leads up to the Cleveland Way.

This application seeks full planning permission to vary a planning permission granted earlier in 2018 to site a small timber tea hut building on land adjacent to the Quarterdeck in Robin Hoods Bay, to provide hot and cold food and drinks.

The variations proposed comprise the variation of condition 4 which relates to the type of food that can be sold. No change is proposed to the list of hot foods allowed to be sold, but consent is sought to sell any type of cold foods and drink.

It is also proposed to change in design of the side door from a solid door to a stable style door.

Details have also been submitted of the proposed signage on the building. This has been amended during consideration of the application and is now proposed to be applied above the front doors but under the eaves of the roof, rather than projecting above the roof of the building. Menu boards are also proposed on the reverse side of the side window shutters, so they will be visible when the tea hut is open, but will not be visible when the hut is closed and the shutters are up. This signage does not require consideration under the advert regulations.

Main Issues**Policy Context**

Core Policy A of the NYM Local Development Plan seeks to ensure that new development conserves and enhances the Park's special qualities; with priority being given to ensuring development does not detract from the quality of life of local residents, supports the character of a settlement and strengthens and diversifies the rural economy.

Core Policy G of the NYM Local Development Framework seeks to ensure that the landscape, historic assets and cultural heritage of the National Park are conserved and enhanced, with particular protection being given to those elements which contribute to the character and setting of Conservation Areas.

Core Policy H of the NYM Local Development Framework seeks to strengthen and support the rural economy by providing local communities with a range of opportunities for entrepreneurship.

Development Policy 4 of the NYM Local Development Framework seeks to ensure that development within or immediately adjacent to a Conservation Area either preserves or enhances the character and appearance or setting of the area and that the scale, proportions, design and materials respect the existing architectural and historic context with particular reference to traditional buildings, street patterns, the relationship between buildings and spaces and views into and out of the area.

Development Policy 14 seeks to ensure that new tourism development and the expansion or diversification of existing tourism businesses 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 or 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 unless the facility can't be accommodated in an existing building in that location.

The principle of this development has already been agreed, including an opening door on the side of the building and the sale of a variety of hot and cold foods.

The main issues in this instance are therefore considered to be whether the installation of a stable door and the nature of the applied signage would have a detrimental visual impact on the building or the character of the locality and whether the sale of any type of cold food would have any greater impact on the character of the area than that allowed under the existing permission.

In terms of the side door, a door has already been approved in this location, so concerns expressed by local residents regarding noise and disturbance from an open stable door is not considered to be materially different from a single door being open. In terms of visual impact, it is not considered that this change in design would have any impact on the character of the locality.

In terms of the type of cold food to be sold, it is not considered that the range of cold food would have any impact on levels of litter or smells, that might be a valid concern in relation to the types of hot food sold, which can have implications in terms of smell nuisance. When the application was originally considered by the Planning Committee, it was considered important that hot foods were restricted, rather than cold foods. The reason that cold foods were limited was purely because the applicant provided a list of what he thought he would be selling, rather than there being a material planning reason to restrict it. Consequently, there are no material planning reason to restrict the type and range of cold foods sold.

In terms of signage, this has been significantly amended during the consideration of the application and has overcome the concerns expressed by the Parish Council. The signage would be discreet and would not have a detrimental impact on the character of the locality.

conservation area, making the tea hut more visible in its setting. However, the signage has been significantly amended and it is considered that this has overcome these initial concerns.

In view of the above, it is considered that the changes proposed do not materially affect the character and nature of the development already approved, and would not have any different impact on residential amenity or the character of the conservation area than the scheme already approved.

A number of objections have been received from local residents and the Parish Council (with regards to the type of cold foods sold), but these do not relate to material planning considerations.

In view of the above, approval is recommended.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

Approval (Amendments Requested and Received)

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and recommended changes to the proposal including amended signage, so as to deliver sustainable development.