

North York Moors National Park Authority

Scarborough Borough Council (North) Parish: Fylingdales	App Num. NYM/2011/0069/CU
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Proposal: Change of use of existing office/washroom/store to an agricultural workers dwelling

Location: Howdale Farm, Fylingdales, Robin Hoods Bay

Applicant: J R Cussons & Son, Howdale Farm, Fylingdales, Robin Hoods Bay, Whitby, North Yorkshire, YO22 4UL

Date for Decision: 16 May 2011

Grid Ref: NZ 495179 501730

Director of Planning's Recommendation

Approval subject to the following conditions:

1. TL03 Standard three year commencement date
2. RU06 Agriculture/forestry occupancy condition
3. PD01 Withdrawal of all PD Parts 1 & 2

Reasons for Conditions

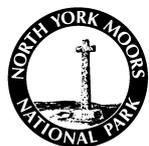
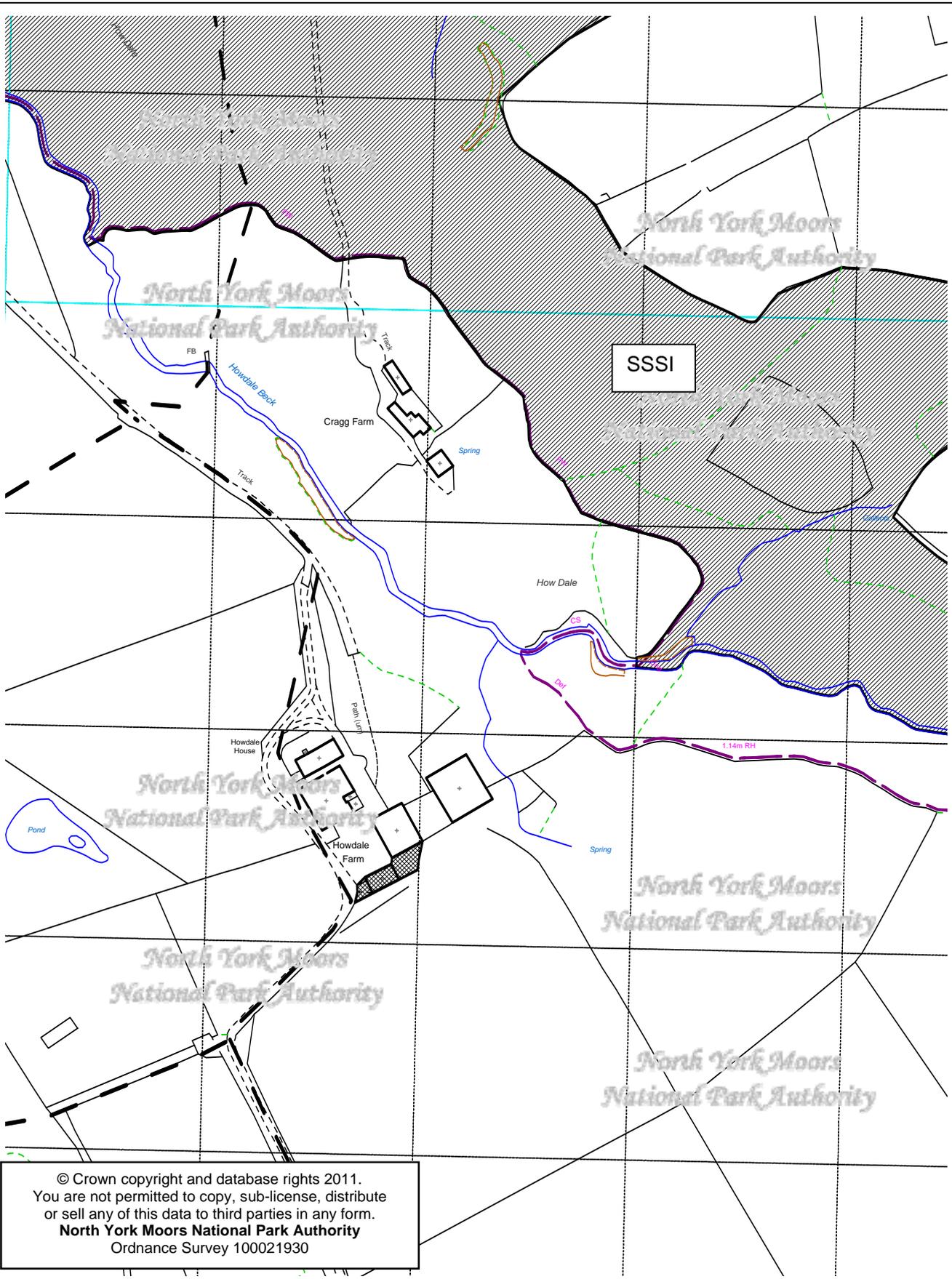
1. To ensure compliance with Sections 91 to 94 of the Town and Country Planning Act 1990 as amended.
2. The site of the proposed dwelling is in an area where Core Policy J of the North York Moors Local Development Framework and Planning Policy Statement 7, Annex A which seek to restrict new residential development to that which is essential to the needs of local agriculture to comply with the provisions of NYM Core Policy A.
3. In order to enable the Local Planning Authority to retain control over future alterations to the property in the interests of safeguarding the existing form and character of the building in line with NYM Core Policy A and NYM Development Policy 3.

Consultations

Parish - No objection.

Highways - No objection.

Site Notice Expiry Date - 22 April 2011.



North York Moors National Park Authority
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Application No:
 NYM/2011/0069/CU

Scale: 1:2500 



Application No: NYM/2011/0069/CU

Background

Howdale Farm is a mixed farm unit situated on land between the A171 and old railway line south of Robin Hoods Bay. It is run as one business with Woodside Farm, which is situated on the opposite side (west) of the A171. The holding has an extensive planning history particularly as regards proposals for new dwellings.

This particular application relates to conversion of a single storey building (part stone and pantile) adjacent to a Public Right of Way which passes through the main farm complex at Howdale Farm. The building was erected in 1989 under the agricultural notification procedure as a "chemical/fertiliser/farm office/general purpose building". In 1997 an application for a certificate of lawfulness in respect of the use of the building as a single dwelling was refused. An Enforcement Notice requiring cessation was served and a subsequent appeal dismissed (1997). In 1998 a planning application to change the use of the chemical store building to a dwelling was refused by this Committee. A subsequent appeal in June 1999 was dismissed. In 2006, a further application was submitted to convert the single storey store building into a further agricultural workers dwelling on the holding. At that time the applicant stated that his health was declining and therefore needed to reduce his farm work commitments and therefore needed to employ a further full time worker who he wanted to be in sight and sound of stock at Howdale Farm.

In terms of agricultural need a full appraisal was submitted in relation to that application and in summary the total holding at that time comprised 110 Hectares (54 hectares at Howdale and 65 hectares at Woodside). The total holding had a suckler cow quota of 156 units with farm buildings at both locations providing winter housing. Around 100 bull and heifer calves were fattened per year with around 20 heifers retained as replacements for the herd. There was also a flock of 35 ewes.

After some consideration, this application was refused on the basis that it was not considered that the applicant had proven the need for a third dwelling on the holding and that his reasons for requiring the dwelling related to personal needs and desires not the needs of the enterprise (as required by PPS7).

Furthermore it was considered that as the building concerned had been the subject of several appeals and applications relating to its change of use to a dwelling and that these had been refused and enforcement action upheld to serve a cessation to its residential use, it was not considered that there had been any significant changes to the overall situation at Howdale Farm which would warrant a change to these previous decisions of refusal.

Subsequent to this refusal, the applicants appealed the decision which was dismissed. However, the applicant then challenged the appeal decision in the high court and the decision was subsequently quashed. The appeal then went to a second hearing, with the same consequences. The appeal was again dismissed by an Inspector on 20 August 2008 and the applicant again challenged the decision and it was again quashed. The third Inquiry took place on the 5 and 6 January 2010 and the appeal was again dismissed and again challenged and subsequently quashed. The consequence of this is that another Public Inquiry has to be held into the refusal of the 2006 application. The Planning Inspectorate has agreed to postpone re-arranging this Inquiry until after the end of June 2011.

As well as the planning history directly relating to the application building other planning history of the holding is considered relevant to consideration of the application.

In 1988 planning consent was granted on appeal for what was then a second house on the holding of Howdale Farm. This house, known as Bridge Farm, is now the main four bedroomed house on the holding; the original farmhouse at Howdale Farm which is just opposite the application site was sold off by the applicant once approval had been granted for the second house, Bridge Farm.

Application No: NYM/2011/0069/CU

Background (continued)

At the time of the appeal regarding the new house the applicant claimed the site chosen was the best to serve the needs of Howdale Farm having a good all year round access via the nearby disused railway and a track access to the existing buildings adjacent to the then main dwelling at Howdale itself.

Subsequently the applicant purchased other land to the west of the A171, land formerly part of Wragby Farm but now known as Woodside Farm, which is farmed by the applicant and his son as one holding with Howdale Farm. In November 2004 this Committee refused consent for a dwelling on that part of the holding on the grounds of lack of agricultural need. A subsequent appeal against that refusal was allowed in June 2006. This means that the holding currently has two dwellings; Bridge Farm, the four bedroomed dwelling on the Howdale part of the holding and the new house on the Woodside Farm part of the holding.

This current application again seeks permission to change the use of the existing office building at Howdale Farm into an agricultural workers dwelling and the application is accompanied by an updated Agricultural Appraisal which states that the total acreage is 330.56 acres (approximately 58 acres more than previously stated) with grazing rights for 288 sheep and a beef herd run as a 120 cow herd with the beef suckler herd comprising 116 continental cross cows, 36 replacement heifers and four stock bulls.

It is also stated that the business intends to increase breeding cow numbers by 12 and to re-instate a breeding sheep flock of 100 – 200 head.

Mr Richard and Mrs Valerie Cussons are to retire in 2011 but will retain a financial and administrative role within the business.

The current labour force consist of John Cussons (31) who lives at Woodside Farm, Valerie Cussons (60) and Richard Cussons (63) who live at Bridge Farm. However, Mr Richard Cussons has had a double heart by-pass eleven years ago and suffers from angina, which is aggravated by physical work in cold and wet weather conditions; he has also torn the rotor cuff in his left shoulder which has resulted in the deterioration of the function of his left arm. He is also suffering from Osteoarthritis in his right knee which is gradually reducing his mobility.

In view of the above, the supporting statement concludes that a resident farm worker is required at Howdale Farm to meet the current labour requirement and essential close supervision needs of the enterprise at this site.

Main Issues**Policy Context**

Core Policy J of the Local Development Framework seeks to ensure the provision of a mixture of housing types and tenure to maintain the vitality of local communities, consolidate support for services and facilities and support the delivery of more affordable housing. This is to be achieved through locating all open market housing, including new build and converted units to the Local Service Centre of Helmsley and the Service Villages, as well as other measures including supporting the development of local needs housing within the main built up area of the Local Service Villages and Other Villages, and restricting new housing development in the Open Countryside to that which is proven as essential for farming, forestry or other essential land management activities.

Clearly the crux of the issue here is whether or not there is a proven essential need for additional farm workers accommodation to be sited on the farm holding at Howdale Farm, which would mean that the proposal is in accordance with Core Policy J.

Application No: NYM/2011/0069/CU

Material Considerations

The material changes in circumstance since the submission of the 2006 application are that the health of Mr Richard Cussons has unfortunately deteriorated further, such that his role will be confined to supervision and the driving of a tractor. In particular he will not be able to be involved in calving. Officers have no reason to doubt the validity of Mr Cussons doctors advice.

Over the period of the last three appeals, common ground has been agreed which is that the business is viable, is well run and is likely to remain viable. Furthermore, all three previous Inspectors have concluded that at all or most times of the year there is a need for an additional stockman, the question was whether it was necessary for the additional worker to live permanently on-site at Howdale Farm.

The National Park has sought independent legal advice from a Barrister in relation to the circumstances put forward with this current application and the legal advice is that on the basis of Mr Richard Cussons deteriorating health, only John Cussons is able to meet part of the three labour units and consequently there is now a functional need for further labour on the landholding.

The previous challenges related to the assertion by the three Inspectors, that the need for on-site presence was limited to the calving season and therefore for the majority of the year, cows could be left unsupervised. As such there was no need for a third worker to be resident at the holding. However, the Court held that calving times are unpredictable and that the calving season has spread to at least seven to nine months in a year. The last judge therefore concluded that a stockman does need to be available at most times and that there is a need for an on-site presence which cannot be met by Richard Cussons due to his ill health. Also, alternatives to a separate dwelling such as Mr and Mrs Cussons vacating Bridge Farm, or having the stockman lodging with them were dismissed as unreasonable. Clarification has been sought whether the nearby dwelling known as Howdale Farmhouse is "available" and whether the applicant would be agreeable to sign a Section 106 Agreement that prevents the separation of the new unit of accommodation and Bridge Farmhouse from the farm unit known as Howdale. Members will be updated at the Meeting.

The legal advice given concludes that it has been demonstrated that there is a need for an on-site presence due to the applicants ill health and his inability to now assist with calving in particular. It is therefore now reasonable to conclude that a further unit of living accommodation is required at Howdale Farm. The "chemical store" contains all the physical requirements to meet the living accommodation need.

Recommendation

In view of the above considerations, approval is recommended.

Reason for Approval

In the view of the Local Planning Authority it has been satisfactorily demonstrated that there is a functional need for an additional unit of living accommodation at Howdale Farm and the proposal therefore is in accordance with Core Policy J of the North York Moors Local Development Framework.