

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

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

**Town and Country Planning Act 1990**

**Appeal by: Mr John Knaggs**

**Against: Refusal of Planning Permission for the erection of a timber stable  
block and field shelter**

**Location: Land on Willow Wood Way, Stainsacre**

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

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### **Contents**

- 1.0 Introduction
- 2.0 Relevant Site History
- 3.0 The Proposal and the Decision
- 4.0 Planning Policy Background
- 5.0 Local Planning Authority's Case
- 6.0 Conclusion

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

## **1.0 Introduction**

- 1.1 This Statement refers to the refusal of planning permission for the erection of a timber stable block and field shelter at land on Willow Wood Way, Stainsacre, near Whitby, by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA). The decision notice was dated 17 March 2014.

## **1.2 Site and Surroundings**

- 1.3 Stainsacre is a village of mixed development located just to the west of the town of Whitby. It is accessed from the main A171 road that leads from Scarborough to Whitby, and is surrounded by open countryside, within the North York Moors National Park.
- 1.4 The land to which this appeal relates comprises a parcel of agricultural land of approximately 5.68 acres in area, located at the end of Scaper Lane and accessed from the new Sanctuary Housing Development now known as Willow Wood Way. Vehicular access to the field was retained at this point as part of that housing development, for agricultural access.

## **2.0 Relevant Site History**

- 2.1 When the affordable housing site at Willow Wood Way was developed, the field to which this appeal relates was also sold off as an individual parcel, separate from the farm holding it was previously part of. The field has been purchased by the appellant who is occupant/owner of 26 Rigg View, Stainsacre, which is less than a 5 minute walk away from the site.

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

- 3.1 The planning application was validated on 20 January 2014.
- 3.2 Planning permission was sought for the erection of a timber-clad building to provide 2 stables and tack room and a separate field shelter. It was proposed that the stable would measure 10.8m long x 3.6m deep with a maximum height of 3.5m and the field shelter would measure 7.2m wide x 4.5m deep with a maximum height of 3.2m. It was proposed that buildings would be clad in horizontal timber boarding with green box profile metal sheet roof.
- 3.3 The proposed building would be located adjacent to the northern boundary of the site which abuts the embankment up to the old railway line (now the cinder track permissive path) and approximately 25m west of the access gates at the end of Willow Way.

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

3.4 The application was refused by the LPA under delegated powers for the following reason:

1. The proposed stable building and associated equine use would result in unacceptable levels of activity, both in terms of vehicular, horse and pedestrian movements detrimental to the amenities enjoyed by the occupiers of adjoining residential properties and highway safety. The proposal would therefore be contrary to Development Policy 17 and Development Policy 19 of the North York Moors Local Development Framework.

#### **4.0 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 the English National Parks and the Broads UK Government Vision and Circular 2010. They 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 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(2) 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.

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

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.

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. This commitment has been publicly confirmed by the Prime Minister during the consultation on the draft NPPF and in recent announcements by the Planning Minister in relation to permitted development rights changes. 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 **Local Development Framework:** The relevant policies are:

- Development Policy 17 "Commercial Horse Related Development"
- Development Policy 19 "Householder Development"

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

**Development Policy 17** of the NYM Local Development Framework seeks to permit commercial horse related development, subject to a number of criteria including where the amenities enjoyed by neighbouring occupiers will not be harmed by reasons of disturbance and/or smell nuisance, there is adequate provision for parking and/or other associated ancillary activities, the proposal is of appropriate scale and well related to existing buildings.

**Development Policy 19** of the LDF states that proposals domestic horse related development and buildings associated with the keeping of horses for recreational purposes will only be supported where they are closely associated with the domestic curtilage.

These LDF Policies and supporting text have been supplied for the Inspector with the questionnaire.

## **5.0 Local Planning Authority's Case**

- 5.1 The key issue for consideration is whether or not the proposed siting of the buildings and the associated equine use of this agricultural land would result in unacceptable levels of activity, both in terms of vehicular, horse, and pedestrian movements, which would be detrimental to the amenities enjoyed by the occupiers of the adjoining residential properties.
- 5.2 If the appeal proposal were purely for the keeping of two horses for the enjoyment of the appellant and his family only, it would not be considered as commercial development and would be considered under the criteria set out in Development Policy 19 as ancillary domestic development. The proposal would not be in accordance with the strict interpretation of this Policy, as the site is not close to the domestic curtilage of the appellant. Because of the distance it is away from the appellant's dwelling and because it is not accessed through their domestic curtilage, there is a greater likelihood that the proposal would lead to the appellants visiting the site by car and also for others to keep horses at the site and use the stables (even if not in the commercial sense of paying rent). It is considered that as the site is not adjacent the appellant's garden, the reasonableness and enforceability of conditions restricting the use to the appellants only, is significantly reduced and it would be extremely difficult to prevent a commercial enterprise being established which would have an unacceptable impact on the amenities of adjacent dwellings, due to unacceptable levels of activity and resultant disturbance.

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

- 5.3 The appeal documentation states that the proposed buildings and land would not be used for commercial purposes. However, it became apparent during the consideration of the planning application that the site was being used by people other than the appellant and this was generating significant levels of disturbance to adjoining occupiers, in terms of activity levels. This might not have been commercially in terms of payments being made for the keeping or riding of horses, but it exceeded what could be considered as ancillary domestic use.
- 5.4 Evidence was submitted by those living locally that a number of children were being given riding lessons on the road on Willow Wood Way, and that there were significant amounts of vehicular movements from people (the appellants and others) visiting the site, not on foot as suggested in the appellants statement. The amount of activity created by this has caused significant noise disturbance and nuisance, resulting in a detrimental impact on the residential amenities of the adjoining domestic properties, contrary to both Development Policy 17 and 19.
- 5.5 Willow Wood Way has a shared pedestrian and vehicular surface and the nature of the development is that the houses open out directly onto the road and the children play at the front of the houses. Whilst there is an agricultural right of access along Willow Wood Way to the appeal site, the level of traffic created by agricultural activity to this small parcel of land could be expected to be minimal, as it would be for the use of the land to graze two horses. However, the more intensive use of the land for the keeping and use of horses by those other than the appellant and his wife, which would be further enabled by the siting of the proposed stable and field shelter on the site, would result in significant activity levels which would cause unacceptable harm to the amenities enjoyed by the occupiers of those adjacent properties. The appeal proposal is therefore considered to be contrary to Development Policy 17 of the LDF.
- 5.6 It is considered that conditions attached to any planning permission restricting how the site be used would be very difficult to enforce, particularly due to how the site has been used up until now. Furthermore, subsequent to the refusal of the planning application to which this appeal relates, a stable building/field shelter has been constructed on site. This leads the Local Planning Authority to be concerned that if the appeal proposal be allowed, even if with conditions restricting the use to ancillary domestic only, planning conditions might be breached and would be difficult to enforce.

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

## **6.0 Conclusion**

- 6.1 It is not considered that the proposal can be satisfactorily accommodated within the locality without resulting in an adverse impact on the amenities of the occupiers of the properties in Willow Wood Way.
- 6.2 The proposal would therefore conflict with Development Policies 17 and 19 of the NYM Local Development Framework.
- 6.3 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.

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/A/14/2223379**  
**NYM/2014/0009/FL**

## **APPENDIX A**

### **Proposed Conditions:**

1. The development hereby permitted shall be begun before the expiration of 3 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. There shall be no commercial use of the stable hereby permitted and it shall be used only for the horses kept for hobby/domestic purposes ancillary to the occupation of the property known as 26 Rigg View, Stainsacre and for no other purpose unless a separate grant of planning permission has first been obtained from the Local Planning Authority.
4. 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.
5. No burning of manure or stable sweepings shall take place anywhere on the site and full details of the proposed method of storage and disposal of waste from this stable including the location of any storage and the frequency of disposal off the site shall be submitted to the Local Planning Authority within one month of the date of this consent. The method of waste disposal shall accord with the details so approved and there shall be no variation unless otherwise agreed with the Local Planning Authority.
6. The external elevations of the stable and field shelter hereby approved shall, within three months of first being brought into use, be clad in dark stained horizontal timber boarding and shall thereafter be so maintained unless otherwise agreed in writing by the Local Planning Authority.
7. The external surface of the roof of the building hereby permitted shall be coloured and thereafter maintained dark grey or dark brown and shall be maintained in that condition in perpetuity unless otherwise be agreed in writing with the Local Planning Authority.