

Planning Inspectorate Reference: APP/W9500/A/15/3129852
Local Planning Authority Reference: NYM/2014/0725/AGRP

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: L E & G Hodgson

Against: Refusal, under prior approval procedure, to grant permission for the erection of a general purpose agricultural building

Location: land near Demesne Farm, Fylingthorpe

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

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For North York Moors National Park Authority
August 2015

1. Introduction

- 1.1 This Statement refers to a refusal of permission by the North York Moors National Park Authority (NYMNP) as the Local Planning Authority (LPA) for the erection of a general purpose agricultural building under the agricultural prior notification procedure. The site is land near Demesne Farm, Fylingthorpe and the decision was sent by letter dated 15 December 2014.
- 1.2 The prior notification system operates in National Parks and is described in paragraphs 3.1 to 3.3 of this statement.

2. Site, History, Proposal and Decision

- 2.1 The application site occupies a remote location to the south of the village of Fylingthorpe. There are some scattered farms in the locality, which are visible from the road and many of which are historic/traditional farmsteads with a principle dwelling and range of traditional buildings. The landscape is very undulating and the majority of the land is used for grazing with small pockets of woodland within the dales.
- 2.2 The appellant currently farms at Low Farm which is some distance to the north-east of the site which is visible from and accessed off the road through Fyling Park. At the initial submission stage, the appellant advised that having farmed at Low Farm for over 30 years he is due to retire and give up the tenancy in 2016. He explained to Officers that his intention is to retain a small numbers of sheep and cattle on land he owns, to supplement his income during his retirement. The scaled-down agricultural enterprise requires new facilities for agricultural operations but the enterprise would be managed from their address in the village of Fylingthorpe.
- 2.3 The new building is proposed to be sited a significant distance from any neighbouring farms/properties in an open field, bounded on one side by a small woodland. The land is accessed via a track which serves three other properties, including Park Farm; which, at some 550 metres to the east, is the closest property to the application site.
- 2.4 The access track cuts through sloping land and Park Farm is situated on lower ground which makes it relatively unobtrusive in short-distance views but its position on the hillside makes it very prominent in views in the approach from Fylingthorpe. The access track which is designated as a public bridleway continues to the application site and beyond, through open fields.
- 2.5 The building is proposed to occupy a flat area directly in front of a small pocket of woodland. This area is currently used as a feeding area for cattle and at the time of the Officer's site visit was suffering from poaching by livestock, but this damage was limited to the areas immediately surrounding bale feeders (and some track damage had been caused by vehicles).
- 2.6 The proposed building measures approximately 18 metres by 9 metres, 3.6 metres to eaves and 4.9 metres to ridge. The building is of typical agricultural design and is shown to have four bays, three of which would be open in the front elevation and the remaining elevations would have 1.2m concrete dwarf walls with Yorkshire Boarding above, all under a grey fibre cement roof.

- 2.7 The building is required as a safe feeding and handling area for livestock and in order to reduce the level of poaching of the land by the herd. It has been developed to follow Natural England advice under the Catchment Sensitive Farming Scheme which seeks to improve the water quality in the rivers.
- 2.8 The notification was refused by the LPA under delegated powers for the following reason:

The siting of the proposed building, remote from any neighbouring farmsteads and other buildings would represent sporadic development which would be detrimental to the landscape character and appearance of this part of the National Park. The building would be clearly seen from the adjacent public bridleway and by reason of its isolated nature would have a harmful impact on this landscape which is not characterised by isolated or small groups of buildings.

3 Agricultural Notification Procedure and Planning Policy Background

- 3.1 Agricultural permitted development rights given by Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 are subject to a prior notification procedure. This means that prior to commencement; the developer must apply to the LPA for a determination as to whether prior approval will be required as to the siting, design and external appearance of the building. The LPA is given 28 days in which to consider and advise the developer as to whether prior approval is required.
- 3.2 In this case, the notification was received on 21 October 2014 and the LPA subsequently determined that prior approval was required in order to assess the landscape impact. The applicant was advised of this by letter dated 29 October 2014.
- 3.3 In determining prior notification submissions, LPAs may only issue a decision based on siting and design together with consideration of the impact upon features of archaeological and ecological interest.
- 3.4 At the time of the decision, the statutory Development Plan for the area formally consisted of:
- The North York Moors Local Development Framework: Core Strategy and Development Policies Document (CSDPD) which was adopted on 13 November 2008.
- 3.5 The National Park Authority's Local Development Framework (LDF) was formally adopted in November 2008. The Core Strategy and Development Policies, Development Plan Document was submitted for examination in January 2008. The examination hearings were in July and the Inspector's report issued on 13 October 2008. The National Park Committee adopted its LDF on 13 November 2008. The six week period of opportunity for a high court challenge ended on 25 December 2008 with no challenges submitted.
- 3.6 The Policies relevant to the application for prior approval are Core Policy A (Delivering National Park Purposes and Sustainable Development) and Development Policy 12 (Agriculture).

Copies of these LDF policies were attached in full to the appeal Questionnaire.

Core Policy A of the Local Development Framework seeks to further the National Park purposes and duty by encouraging a more sustainable future for the park and its communities whilst conserving and enhancing the Park's special qualities. Priority will be given to development that will not have an unacceptable impact on the wider landscape, quiet enjoyment of the Park or quality of life of residents or visitors; development in locations and of a scale which supports the character and function of settlements; maintaining and enhancing the natural environment; conserving and enhancing the landscape, settlement, building features and historic assets of landscape character areas; applying sustainable design and energy use; provision of a choice of housing; strengthening and diversifying the rural economy and enabling access to services, facilities, jobs whilst minimising environmental impacts of transport.

Development Policy 12 of the Local Development Framework seeks to permit proposals for new agricultural buildings, where there is a functional need for the building, the building is designed for the purposes of agriculture, the site is related physically and functionally to existing buildings associated with the business unless there are exceptional circumstances relating to agricultural necessity for a more isolated location, and a landscaping scheme which reduces the visual impact of the proposal on the wider landscape is submitted as part of the proposal.

- 3.7 The Authority's adopted Design Guide is used to add further detail to the development policies and forms part of the Local Development Framework. It therefore carries statutory weight and is a material consideration in the determination of planning applications.
- 3.8 Part 5 of the Authority's adopted Design Guide relates to New Agricultural Buildings. It recognises that the position of new farm buildings is usually dependent on its function and the space available but as a general rule, buildings should be sited within of adjacent to existing groups of agricultural buildings. Poorly sited buildings can have a significant impact on the landscape regardless of its design. It is recommended to avoid locating very large buildings close to smaller ones and where possible roof pitches should be matched to those on the existing buildings and using a multi-span building rather than a single span building can reduce the overall height and therefore landscape impact. The range of materials should be limited since too many can result in a cluttered appearance and materials should be selected to match other at the site and be suitable for the climate. Dark colours are generally more appropriate and consideration should be given to the general colour of the backdrop against which they will be seen
- 3.9 The North York Moors National Park was formerly designated in 1952 under the National Parks and Access to the Countryside Act 1949 and the Government restated the purposes of the designation in the Environment Act 1995. The two statutory purposes are:

"to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park", and

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

In pursuing these purposes, the National Park Authority shall seek to foster the economic and social well-being of local communities within the National Park. Where

it appears that there is a conflict between these two purposes, greater weight shall be attached to the first.

4 Local Planning Authority's Case

- 4.1 Under the notification procedure, the LPA must consider three matters:
- The effect of the development on the landscape in terms of visual amenity
 - The desirability of preserving archaeological sites and their settings
 - Impact on sites of recognised nature conservation value
- 4.2 The Authority's Conservation Department was consulted and although Fyling medieval deer park wall (scheduled monument) is nearby, there are no archaeological or nature conservation issues known to exist within the development site.
- 4.3 The main issues to consider are siting and design. The building has without doubt been designed for the purposes of agriculture and would be in keeping with existing, modern agricultural buildings in the surrounding area. The LPA has no concerns regarding the proposed design or materials which clearly indicate an agricultural purpose in accordance with criterion 2 of Development Policy 12.
- 4.4 The proposed development site is however, remote from any other buildings or manmade structures and would therefore represent an isolated form of development within this protected landscape. Although the site benefits from some screening along the northern boundary, the building would be very isolated and the siting of agricultural buildings in remote locations is uncharacteristic for this National Park. For this reason, the proposal would fail to meet criterion 3 of Development Policy 12.
- 4.5 The design of the building would fulfil the needs associated with the keeping of livestock but in this remote location, it is likely that adverse landscape impact will ensue given that there are no other buildings or facilities associated with the business (which is projected to begin in 2016). It is proposed that the agricultural enterprise will be managed from a residential address in Fylingthorpe village. It is therefore reasonable to expect that this isolated site and proposed building will become the hub of the business and the associated activity will contribute further to the unacceptable harm to the landscape already anticipated by the proposed siting of this general purpose building.
- 4.6 The building is required to serve a new agricultural enterprise and therefore it is difficult to argue that exceptional circumstances exist to support the development in an isolated location. The explanatory text of Development Policy 12 clarifies that exceptional circumstances are those circumstances which apply to the changing farming practices and procedures affecting the agricultural industry and not the changing personal circumstances of an applicant which have been cited in this case.
- 4.7 A public bridleway passes the proposed site (Appendix A) and as such the proposed building would be seen by users of the public right of way network. The siting of a large, unrelated agricultural building in this otherwise unspoilt, typically rural and tranquil landscape would result in a form of development which would harm the landscape character of this part of the National Park and detract from visitors' experiences.

5. Comments on Other Matters Raised in the Appellants Grounds of Appeal

- 5.1 The appellant's agent has asserted that the NYMNPA has acted unreasonably by failing to negotiate with a view to achieving an acceptable outcome. The NYMNPA contests this claim on the basis that Officers invited the applicant to begin pre-application advice to see whether an acceptable solution can be found. Copy letter attached at Appendix B.

6. Conclusion

- 6.1 If allowed, the proposal would be an intrusive, unrelated feature harming the character of this protected National Park landscape. Therefore, for the reasons above and in accordance with the considerations detailed, the LPA respectfully requests that the Inspector dismisses the appeal.
- 6.2 Should the Inspector be mindful to allow the appeal, a list of conditions which the LPA would wish to see imposed are set out in Appendix C.



North York Moors National
Park Authority
The Old Vicarage
Bondgate
Helmsley YO62 5BP
01439 772700

Appendix A - Public Rights of Way (shown green)

Printed: 19 August 2015

By: Helen Webster

Scale: 1:2500



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Mr L Hodgson
Low Farm
Fylingthorpe
Whitby
North Yorkshire
YO22 4QF

Your ref:

Our ref: NYM/2014/0725/AGRP

Date: 25 November 2014

Dear Mr Hodgson

**Erection of General Purpose Agricultural Building on land near Demesne Farm,
Fylingthorpe**

I refer to the above application which is currently under consideration and has reached the end of its formal three week consultation period.


I regret to inform you that I am of the opinion that the proposal would result in an unacceptable landscape impact in this part of the National Park which is devoid of any structures or buildings. I appreciate that the site would be screened to some degree by existing trees and hedges; however, there is a public bridleway running through the site, from which views of the building would be uninterrupted. I have considered alternative solutions but, due to the isolated position in this protected landscape, I am of the opinion that any form of built development in this location would be unacceptable in landscape terms and I would recommend that the notification is withdrawn.

I understand from your supporting statement that your circumstances will be changing in 2016 and you are planning for this time. I would be happy to have a look at alternative positions and provide you with further advice prior to the submission of a planning application. When considering alternative positions, I would draw your attention to the Authority's planning policies and Part 5 of the Authority's adopted Design Guide relating to new agricultural buildings which advise that new buildings or structures should be (subject to operational requirements) sited within, adjacent or close to existing groups of agricultural buildings. You have provided with this notification details of your current and future livestock numbers and available grazing land. To assist with any future proposals, it would be useful to know where the associated land is and where the residential unit from which the land and livestock will be managed from is.

Continued.../

I am sorry that I cannot offer support of your proposal in this location but trust I have explained the Authority's position. If you have any questions or would like to discuss the matter, please do not hesitate to contact me.

Yours sincerely



Miss Helen Webster
Planning Officer

COPY

Appendix C - Recommended 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. No external lighting shall be installed in the development hereby permitted.
4. The external surface of the roof of the building hereby permitted shall be coloured and thereafter maintained dark grey and shall be maintained in that condition in perpetuity unless otherwise be agreed in writing with the Local Planning Authority.
5. No trees, shrubs or hedges to the east and south east of the approved building shall be felled, uprooted, wilfully damaged or destroyed, cut back or removed without the prior written consent of the Local Planning Authority. Any work approved shall be carried out in accordance with British Standard 3998:2010 Tree Work – Recommendations. If any retained tree/hedge is removed, uprooted, destroyed or dies within five years of the completion of the development, it shall be replaced with trees, shrubs or hedge plants of a similar size and species, unless the Local Planning Authority gives written consent to any variation.
6. The development hereby permitted shall be used for the housing of livestock and management of the associated land and for no other purpose. There shall be no alteration or conversion of the building hereby permitted to any other use or permanent residential accommodation and any such use or alteration will require a separate grant of planning permission from the Local Planning Authority.
7. If agricultural use of the building permanently ceases, the building shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before development took place unless the Local Planning Authority has otherwise agreed in writing or unless planning permission for change of use of the building to a purpose other than its original purpose has been approved.