



The Planning Inspectorate

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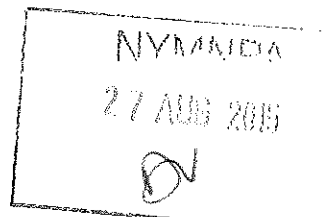
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North York Moors National Park Authority
Development Control Support Officer
The Old Vicarage
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York
YO62 5BP

Your Ref: NYM/2014/0840/FL
Our Ref: APP/W9500/W/15/3039152

26 August 2015



Dear Sir/Madam,

Town and Country Planning Act 1990

Appeal by Mr Iain Harrison

Site Address: Foxhill Paddocks, Low Road, Throxenby, SCARBOROUGH, North Yorkshire, YO12 5TD

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/feedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

Yours faithfully,

Steve Adgey
Steve Adgey

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

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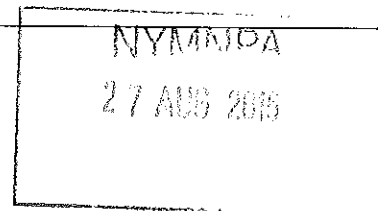
Appeal Decision

Site visit made on 10 August 2015

by **John L Gray DipArch MSc Registered Architect**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 August 2015



Appeal Ref. APP/W9500/W/15/3039152

Foxhill Paddock, Low Row, Throxenby, Scarborough, YO12 5TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of that Act for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Iain Harrison against the decision of the North York Moors National Park.
- The application, ref. NYM/2014/0840/FUL, dated 10 December 2014, was refused by notice dated 3 March 2015.
- The application sought planning permission for the occupation of Unit 1 (the westerly of the two units originally approved) as a dwelling without complying with conditions attached to planning permission ref. NYM2004/0396/FL, dated 18 August 2004.
- The conditions concerned are nos. 10 and 12, which state:
 10. The workspace accommodation hereby approved shall be and remain ancillary to the use of that dwelling to which it is attached, shall form and remain part of the curtilage of that dwelling and shall not be sold off or let separately. The residential accommodation hereby approved shall not be occupied in advance of the associated workspace being made available and the residential accommodation hereby approved shall only be occupied by persons wholly or mainly employed in the associated workspace and their dependants unless otherwise agreed in writing by the local planning authority;
 12. The workspaces in the development hereby approved shall be used for Class B1 purposes of the Town and Country Planning (Use Classes) Order or any Order revoking and re-enacting that Order and for no other purpose unless a further separate grant of planning permission has first been obtained from the local planning authority.
- The reasons given for the conditions are:
 10. The provision of residential accommodation is contrary to the provisions of the Local Plan and would not usually be allowed in this location, consent only being granted on the basis that such accommodation would facilitate the beneficial use of this important range of buildings;
 12. To protect the amenities of nearby residents in particular and this area of Lady Edith's Drive in general and accord with the provisions of Local Plan policy GP3.

Decision

1. The appeal is allowed. Planning permission is granted for amendments to the previously approved scheme [permission ref. NYM4/018/3010B/PA, dated 10 December 1999, for the change of use of existing farm buildings to two units of residential accommodation with ancillary workspace] granted by permission ref. NYM2004/0396/FL, dated 18 August 2004, without compliance with conditions nos. 10 and 12 imposed thereon but subject still to the remaining conditions, so far as they still subsist and are capable of taking effect.

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Procedural matter

2. The appeal seeks relief from conditions 10 and 12 attached to planning permission ref. NYM2004/0396/FL. That permission approved amendments to an earlier permission, ref. NYM4/018/3010B/PA, dated 10 December 1999, for the change of use of existing farm buildings to two units of residential accommodation with ancillary workspace. Conditions 10 and 12 attached to that permission are the same in both. In the interests of clarity, there being no reference at all to the change of use in the 2004 permission, the decision above adapts the wording of that permission to omit the details of the amendment (being not relevant to this appeal) and to add a reference to the change of use permitted by the original 1999 permission. The application description in the heading above has also been adapted/simplified with clarity in mind.

Main Issues

3. The main issue in this appeal is in two parts – whether removal of conditions 10 and 12 would seriously conflict with the aim of diversifying the rural economy of the National Park and, the other side of the coin, whether there is demand for a live/work unit of this type in this part of the National Park.

Reasons

4. The Authority says that condition 10 was attached to the earlier permission because Local Plan policy at that time restricted the conversion of barns in the open countryside to employment uses only. Conversion to a dwelling was contrary to policy but permission was granted because conditions 10 and 12 could secure an element of employment use. Subsequently, Core Policy J of the adopted Core Strategy and Development Policies (CDPS) has enabled conversion for residential letting for local needs – but not for market housing.
5. On its face, it may not seem unreasonable to consider this proposal as akin to seeking relief from an agricultural occupancy condition. There are differences, however. A proposal for relief from an agricultural occupancy condition would be assessed on whether there is a need for an agricultural worker's dwelling either on the farm concerned or in the locality (as in Development Policy 22). In this case, the proposal must be assessed against the need for employment workspace. Also, the workspace is not unfettered but is part of a live/work unit. No evidence of the need for employment workspace is adduced by the Authority, nor on the need for, or desirability of, live/work units.
6. Instead, the Authority emphasizes its Planning Advice Note on 'Conversion and the Economic Test', saying that it requires applicants seeking a change from employment to residential use to demonstrate the limitations of the building for continued employment use and that re-use for economic purposes is not viable. The 'Background' to that document refers to community facilities, the need to try and retain enterprises that offer employment opportunities for local people and the need for a robust marketing exercise to ensure that potential (economic) uses are fully considered before valuable facilities are lost.
7. The Advice Note also sets out the policy background. Development Policy 11 deals with the re-use of employment sites and training facilities. Development Policy 15 does not apply to this proposal; nor does Core Policy I; nor does Development Policy 5 (unless relief from the conditions would enhance the prospect of preservation of the listed building, which is not being claimed).
8. There are, therefore, two questions in particular to be asked. Can a live/work unit, which is essentially what this is, come within the definition of an

employment site? And what sort of employment opportunities can the existing permitted arrangement offer?

9. The workspace amounts to three rooms in the southerly leg of an L-shaped unit. There is also accommodation in the roofspace, though perhaps not with the clear height or width necessary to be classed as rooms. Apart from access to the living accommodation, the workspace overlooks the house's courtyard garden, with two doors opening on to it, and there is a third door, to the driveway to the west, fairly close to the road. To all intents, the workspace can only be used, as intended by the original permission, by whoever is living in the house. The only employment opportunity it can be sure of offering is to whoever occupies the house. Thus, what is at stake here is, in effect, one job (there might also be a secretary and/or an assistant but that cannot automatically be assumed). This does not appear to meet either what one would normally understand as "an employment site" or a place that could offer an employment opportunity, other than to the occupier of the house.
10. Accordingly, it is difficult to see a policy reason to resist the proposed relief from the conditions. Nevertheless, there may be a demand for the sort of house and workspace that this building offers.
11. The property has been marketed for a number of years through various different agents. The Authority provides evidence of marketing through HarrisBell Associates in late 2014 and early 2015. The property is described purely and simply as a house; there is mention of an office/study but not of the planning conditions or their effect. The appellant provides a letter from HarrisBell itself; the accompanying brochure includes in the description, "With Ancillary Workspace", missing from that provided by the Authority. HarrisBell says (in March 2015) that it has been marketing the property since June 2013 and that two potential purchasers were put off by the "restrictive issue". Colin Ellis Property Services marketed the property from July 2012 to May 2013 and speculates that a possible reason for the lack of success was the "restriction regarding the B1 Office/Workshop use". CPH Property Services were instructed to market the property in October 2009 and says that the restriction "proved a stumbling block for a number of potentially interested parties".
12. What one may certainly take from this is that the property has been marketed without success for nearly six years, much more than the "12 to 24 months" indicated as appropriate in the Advice Note. On the other hand, it does not appear to have been marketed as what it is – a dwelling with ancillary workspace, controlled by planning conditions. One may reasonably wonder, however, if someone looking for a house of this size and style, in this sort of location, with ancillary workspace, might not have come across the property, even though it was being marketed, in effect, as a dwelling – in which case it can be accepted that the marketing exercise has been sufficiently robust.
13. In conclusion, any conflict with Development Policy 11, if there is such, is certainly not compelling; and the marketing of the property may be taken to infer no demand for a live/work unit of this size and style in this part of the National Park. On this basis, the appeal proposal would not seriously undermine the aim of diversifying the rural economy of the National Park and the appeal may be allowed.

John L Gray

Inspector

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