

## North York Moors National Park Authority

### Town and Country Planning Act 1990

**Appeal by:** Mr Iain Harrison

**Against:** Refusal of planning permission for the removal of conditions 10 and 12 of planning approval NYM/2004/0396/FL to allow workshop space to be used as residential accommodation and the occupation of the subsequent dwelling to be unrestricted

**Location:** Foxhill Paddocks, Low Road, Throxenby

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

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Jill Bastow, BA Hons, BPI, MRTPI  
For North York Moors National Park Authority

## 1.0 Introduction

- 1.1 This statement refers to the refusal of planning permission by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA) for the removal of conditions 10 and 12 of planning approval NYM/2004/0396/FL to allow the workspace to be used as residential accommodation and the occupation of the subsequent dwelling to be unrestricted at Foxhill Paddock, Low Road, Throxenby. The decision notice was dated 3 March 2015 and a copy was included with the NPA's appeal questionnaire.

## 2.0 Site and Surroundings

- 2.1 Foxhill Paddock is a substantial dwelling with associated workspace situated on the north side of Low Road, to the north of Raincliffe Woods, between Ox Pasture Hall Hotel to the west and Throxenby (a suburb of Scarborough) to the east. The property is one of a pair of dwellings converted from a range of grade II listed former farm buildings situated around a former foldyard. The buildings were once part of Raincliffe Farm which lies some 35 metres to the south, on the opposite side of the road.
- 2.2 The listing description for the building reads as follows:

*GV II. Farm buildings. Mid C18. Coursed rubble sandstone with pantile roof. 1½ storey range flanked by single storey ranges around foldyard, closed by attached wall on fourth side. Central range: threshing barn and 3-bay wagon shed with hayloft over. Board door approached by stone steps to centre left, flanked by square openings with timber shutters; two ventilation slits to right, with stable door at end right. Brick piers and segment arches to wagon-shed at rear. Pitching window in gable end. Range to left: five stables. Range to right: later inserted 2-bay implement shed with brick pier and byres to right with board doors and timber lintels. Wall: blocked opening at centre, with plank gate at end left. Cambered coping.*

## 3.0 Relevant Site History

- 3.1 The former farm buildings at Raincliffe Farm had been in a state of deterioration and disrepair for a number of years prior to planning permission and listed building consent being granted in December 1999 for their change the use into two units of residential accommodation with ancillary workspace (Use Class B1) (NYM4/018/3010B/PA and NYM4/018/3010C/LB refer). Copies of these decisions are attached at Appendix A and B respectively.
- 3.2 Subsequently planning permission and listed building consent were granted in August 2004 for amendments to the previously approved scheme to include the rebuilding of a collapsed section of building (retrospective), the demolition and rebuilding of a workshop to unit 2 and the demolition of the existing outbuildings and the erection of garage and stables (NYM/2004/396/FL & NYM/2004/0397/LB refer). Copies of these

decisions are attached at Appendix C and D respectively.

- 3.3 That planning permission (NYM/2004/396/FL) incorporated two conditions restricting the occupancy and use of the dwelling as follows:

*Condition 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 with the local planning authority.*

*Condition 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.*

- 3.4 In November 2009 planning permission was refused for the variation of condition 10 of planning permission NYM/2004/0396/FL to allow the unit to be occupied by persons partly (as opposed to mainly) or wholly employed in the associated workshop space (NYM/2009/0676/FL refers) with no subsequent appeal against that decision. A copy of the decision is attached at Appendix E.
- 3.5 Therefore conditions 10 and 12 of planning permission NYM/2004/0396/FL restricting the use of the property are still valid and this appeal seeks to remove both conditions to create an open market dwelling without any ancillary workshop space. From the sales particulars obtained by the NPA during the determination of the appeal application the workspace was shown to be used as two sitting rooms and a home office/study with tanning room (copy attached at Appendix F) in breach of the conditions attached to the planning permission. However the NPA holds on file statements in support of the previous application in November 2009 to relax the condition that confirm the workspace was at that time still being used in association with the owner's builders business and two other related businesses. In order for this present breach of the conditions to be immune from enforcement action, the unauthorised use needs to have been continuous for the past ten years, which is clearly not the case.
- 3.6 Pre-application advice was sought by the appellant's agent in December 2004 prior to the submission of the appeal application. Officers appreciated that the conditions were very restrictive and more so in terms of the market for potential buyers than a local occupancy condition might be. However Officers advised that in view of the current restricted nature of the occupancy of the dwelling, and as would be the case with a dwelling with an agricultural occupancy condition, the condition would only be lifted if it were to be replaced with a local occupancy condition in accordance with Core Policy J of the North York Moors CSDPD. Officers made clear that any application to remove

the present conditions and change the occupancy of the unit to an open market dwelling would be likely to face a recommendation of refusal. A copy of the exchange of emails was included with the appellant's appeal form at Appendix 10.

#### 4.0 The Proposal and the Decision

- 4.1 The application to which this appeal relates was received by the NPA on 15 December 2014 and was validated on the same date. The application was given the following development description: the removal of conditions 10 and 12 of planning approval NYM/2004/0396/FL to allow the workspace to be used as residential accommodation and the occupation of the subsequent dwelling to be unrestricted. This differed to that stated on the application forms but was agreed with the appellant's agent .
- 4.2 The proposal was for the removal of conditions 10 and 12 of planning approval NYM/2004/0396/FL: Condition 10 requires the workspace to be and remain ancillary to the use of that dwelling to which it is attached, and the residential accommodation to only be occupied by persons wholly or mainly employed in the associated workspace and their dependants, whilst condition 12 restricted the use of the workshops to Class B1 purposes of the Town and Country Planning (Use Classes) Order only. If approved this would enable the workspace to be used as residential accommodation and the occupation of the subsequent dwelling to be unrestricted. No changes to the fabric of the building were proposed.
- 4.3 The application was supported by a letter from the planning agent, a copy of which was included with the appellant's appeal form at Appendix 5.
- 4.4 The NPA's own Policy Team objected to the application for the following reasons:

*The applicants are seeking to remove the existing conditions which restrict the occupancy to "persons wholly or mainly employed in the associated workspace and their dependants unless otherwise agreed in writing with the Local Planning Authority". It is not clear from the application whether the use of the workspace has ceased or whether any marketing has been carried out for this use. The property is currently being marketed as a residential property only without reference to the existing conditions. The existing condition was imposed on the original planning permission as under the previous Local Plan policies the conversion of barns located in the open countryside were restricted to employment use. Core Policy J in the CSDP sought to widen the potential use of barns in open countryside to local letting, which was considered as an economic use but also as a means to provide much needed local housing. The applicants are seeking permission to remove the condition so that the unit becomes an open market residential property. As the property has already been converted it is not considered appropriate to restrict the use of the property to local needs letting only, however it is considered that the principle of the removal of the employment restriction should be treated in the same manner as the removal of an agricultural workers dwelling condition. Development Policy 22 says that where agricultural occupancy conditions are removed they will be replaced with a local*

*occupancy condition. The applicants have stated in their supporting statement that the property already has a restricted market due to its size and price and that any further condition would render the property unsaleable, however this is not supported by any evidence which would suggest that this is not feasible. The removal of the existing condition which is tied to workshop B1 use is considered to be no different in principle to the removal of an agricultural occupancy condition and therefore the existing condition should be replaced with a local occupancy condition and therefore the proposal for an open market dwelling should be refused. The removal of the local occupancy condition will only be considered where it can be robustly demonstrated that the property has been marketed as a local occupancy dwelling at a realistic price for a period of 12 to 18 months.*

4.5 The Parish Council objected to the application for the following reasons:

*This is an application to create a new dwelling. The applicant has not demonstrated that the premises are not capable of beneficial re-use for economic purposes in accordance with Development policy 11. The applicant has not demonstrated any justification for the occupation of the subsequent dwelling to be unrestricted (Core Policy J, Core strategy and Development Policies Document refers).*

4.6 Three letters of support for the application were received citing the following reasons:

- The condition was originally imposed to encourage the use of the building for a small business. When the council owned the building it was derelict but the subsequent renovations have transformed it into an established residence. It forms a single unit so to enforce such a restriction seems unreasonable.*
- The restriction only applies to a small part of the building and is difficult to enforce.*
- The applicant is not seeking to split the property into two separate residential units.*
- A local occupancy condition would be too onerous as this is a large family dwelling and unlikely to be bought as a second home.*
- There is likely to be limited buyers for a property of such high value and to further restrict the potential buyers will result in the property becoming unsaleable and left empty.*
- The removal of the conditions will not affect the external appearance of this Listed Building in any way.*
- Government policy encourages the development of underused properties, in particular changes to farm buildings to satisfy the demand for residential accommodation.*

4.7 The application was reported to the NPA Planning Committee on 19 February 2015 with a recommendation of refusal and Members supported this recommendation. The refusal notice was issued on 3 March 2015 with the following reasons for refusal:

1. *The Local Planning Authority considers that the proposal would result in the loss of a live-work unit aimed at diversifying the rural economy and would create an open market dwelling in the open countryside contrary to Core Policy J of the Local Development Framework which only permits the conversion of traditional rural buildings in open countryside for residential letting for local needs.*
2. *No justification for the loss of the economic use or evidence of marketing of the property for its current mixed use has been submitted to demonstrate that there is no demand for such B1 (Business) and associated living accommodation in this area of the National Park contrary to the requirements of Development Policy 11 which seeks to resist the loss of employment and training facilities unless the premises are no longer capable of re-use for economic purposes, or the new use would result in significant improvement to the environment or to access and highway arrangement which outweighs the loss of employment land.*

## **5.0 Planning Policy Background**

- 5.1 This section covers both the statutory Development Plan and the general implications of the location of the appeal site within a National Park.
- 5.2 At the time of decision, the Development Plan for the area formally consisted of the **North York Moors Core Strategy and Development Policies Document (CSDPD)** which was adopted by the NPA on 13 November 2008. The most relevant policies are considered to be:
  - Core Policy J - Housing
  - Development Policy 11 - Re-Use of Existing Employment and Training Facilities
  - Development Policy 22 – Removal of Agricultural Occupancy Conditions

**Core Policy J** 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 in the main built up area of the Local Service Centre of Helmsley and the Service Villages. In addition the policy supports the development of local needs housing on infill plots or as a conversion of an existing building 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, replacement dwellings and conversion of traditional rural buildings for residential letting for local needs.

**Development Policy 11** states that the re-use of existing employment and training facilities for other purposes will only be permitted where the premises are not capable of re-use for economic purposes, or the new use would result in significant

improvement to the environment or to access and highway arrangements, which outweighs the loss of employment land.

**Development Policy 22** states that the proposals for the relaxation of agricultural occupancy conditions will only be supported where it can be demonstrated that there is no longer a need for the farm workers on the holding or in the locality. Where permission is granted the agricultural occupancy condition will be substituted with one which restricts occupancy to local needs as defined by Core Policy J. Whilst it is not directly relevant to this application it does reinforce the NPA's position on unrestricted dwellings in the open countryside.

Copies of these policies and the supporting text were sent with the NPA's appeal questionnaire (Development Policy 22 is attached to this statement as Appendix G).

- 5.3 Whilst not part of the Development Plan, the NPA has produced a Planning Advice Note: Conversions and the Economic Use Test the purpose of which is to provide guidance as to what evidence will be required to either demonstrate that a building is no longer capable /suitable of a beneficial economic use. A copy of this is attached at Appendix H.
- 5.4 Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The **National Planning Policy Framework (NPPF)** does not change the statutory status of the Development Plan as the starting point for decision making but is a material consideration in the determination of an application. Development that accords with an up-to-date Local Plan should be approved, and conversely development that conflicts should be refused unless other material considerations indicate otherwise. The North York Moors CSDPD 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.
- 5.5 The Government's commitment to the protection of National Park's 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. Furthermore whilst at the heart of the NPPF is a presumption in favour of sustainable development, footnote 9 confirms that development should be restricted within a National Park. It is clear therefore that the NPPF expects a different approach to be taken in National Parks both to plan making and decision taking compared with other areas outside of designated areas.
- 5.6 The NPPF at paragraph 28 encourages Local Planning Authorities to support economic growth in rural areas and promote a strong rural economy through, amongst other criteria, the development and diversification of agricultural and other land based rural businesses. It also advises at paragraph 55 that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances,

such as where development would re-use redundant or dis-used buildings which would lead to an enhancement of the immediate setting.

5.7 The **North York Moors National Park** was formally designated in 1952 under the National Parks and Access to the Countryside Act 1949. The two key purposes 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 it appears that there is conflict between these purposes the 'Sandyford principle' confirms that greater weight should be given to the first purpose, the conservation of the landscape (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: 'National Parks' DoE, 11 September 1996.

## 6.0 Local Planning Authority's Case

6.1 The NPA considers that there are two main issues raised by the appeal:

- Whether the appellant has satisfactorily demonstrated that the property is no longer capable of beneficial re-use for economic purposes; and
- Whether the removal of the current occupancy condition and the creation of an open market dwelling would undermine the adopted housing policies of the North York Moors CSDPD (2008).

### 6.2 Loss of Employment Use

6.3 The appeal seeks the removal of the existing conditions which presently restrict the use of the workspace to Use Class B1 and the occupancy of the residential accommodation to "persons wholly or mainly employed in the associated workspace and their dependents unless otherwise agreed in writing with the Local Planning Authority". It is not clear from the application or appeal documentation whether the use of the workspace has now ceased although the sales particulars for the property obtained during the processing of the application indicate that the workspace is now used as two sitting rooms and a home office/study with tanning room. However the NPA holds on file statements in support of the previous applications in 2009 and 2010 to relax the conditions that confirmed the workspace was still being used in association with the owner's builders business and two other related businesses. In order for the present breach of the conditions to be immune from enforcement action, the unauthorised use needs to have been continuous for the past ten years, which is clearly not the case.

6.4 The NPA's Planning Advice Note: Conversion and the Economic Use Test in support of Development Policy 11, requires applicants seeking the change of use of existing employment sites to residential use to demonstrate the limitation of the building for continued employment use and that re-use for economic purposes is not viable through an appropriate marketing exercise. At the time of the application no evidence of the marketing the property for its current mixed use was submitted although the NPA were aware that the property was on the market for sale having received a number of enquiries. As such the NPA contends that the appellant has not made the appropriate effort to market the property for its current lawful use, with the use and occupancy



restrictions clearly advertised and therefore the NPA is not confident that the premises are no longer required for beneficial re-use for economic purposes. If allowed the proposal would result in the loss of an economic use contrary to Development Policy 11 and the Inspector is respectfully requested to dismiss the appeal.

6.5 Removal of Occupancy Condition

- 6.6 At the time that the original planning application for the conversion of the former farm buildings at Raincliffe Farm was granted in 2004, the policies of the adopted North York Moors Local Plan (2003) only supported the conversion of traditional rural buildings in the open countryside where the end use was for employment purposes; independent residential use was not supported. Whilst not strictly in accordance with adopted planning policy, the proposal for a live-work unit (Use Class B1 workspace) was considered at the time to enable the urgent repair and long term survival of this range of grade II listed buildings. Therefore planning permission was granted subject to a condition restricting the occupancy of the dwellings to persons wholly or mainly employed in the associated workspace.
- 6.7 Current planning policies under the North York Moors CSDPD (2008) seek to prevent open market housing in the countryside, but widen the potential use of traditional rural buildings from purely for economic purposes to include residential letting for local needs, which still provides an economic benefit but also much needed local housing. Local Occupancy Conditions have been applied to new build dwellings in the National Park since 2002 to ensure that the limited opportunities for new housing meet local need rather than external market demand. The concept has been extended in the North York Moors CSDPD (2008) to include most new build dwellings, replacement dwellings and the conversion of traditional rural buildings for residential letting for local needs.
- 6.8 The farm buildings at Raincliffe Farm have already been converted into two dwellings and sold separately to the original farmhouse and therefore it would not be possible to restrict the use of the appeal property to residential letting for local needs only and as such the proposal is strictly contrary to Core Policy J. However given that the conversion of the farm buildings has already taken place and that no further alterations are proposed which would affect the landscape of this part of the National Park, the NPA considers that the imposition of the local occupancy condition, but without restricting the tenure to letting only, meets the thrust of Core Policy J and is a reasonable alternative approach to the current occupancy restrictions.
- 6.9 Furthermore the NPA considers that the principle of removing the current condition restricting the occupancy of this property should be treated in the same manner as the removal of an agricultural occupancy condition, as both situations relate to the creation of dwellings in the open countryside as an exception to the NPA's adopted housing policy under Core Policy J. Development Policy 22 states that where agricultural occupancy conditions are removed they will be replaced with a local occupancy condition. The appellant's agent has stated in his supporting statement that the property already has a restricted market due to its size and price and that any further occupancy condition would render the property unsaleable, however this is not

supported by any market testing evidence to demonstrate this. The removal of the existing occupancy condition which ties the occupancy of the dwelling to persons wholly or mainly employed in the associated workspace (Class B1) is considered to be no different in principle to the removal of an agricultural occupancy condition and therefore the NPA contend that existing conditions should be replaced with a local occupancy condition. However the appeal is for the removal of those restrictive use and occupancy conditions to create an open market dwelling and therefore in view of the above and clear policy conflict the NPA respectfully request that the appeal is dismissed.

- 6.10 In his supporting letter to the application the appellant's agent refers to the recent changes to permitted development rights which allow the conversion of an agricultural building into a dwelling outside of the National Park and that this indicates the Government's intention to allow more flexible uses of rural buildings. Notwithstanding that these changes do not apply within the Park, the conditions imposed on the original planning permission over-rule any subsequent changes in permitted development rights and in any case were imposed to achieve a different purpose, namely to find a suitable new use to ensure the long term survival of this range of grade II listed buildings.

## **7.0 Comments on Grounds of Appeal**

- 7.1 The appellant's agent contends that the proposal would result in the loss of a very small workshop unit and given that it is at the heart of the residential space, its commercial use is very limited indeed. The NPA contend that the planning permission granted in 2004 for a live-work unit was as an exception to the adopted housing policies at the time. The very nature of a live-work unit is such that the same persons occupy both the business space and the dwelling so there should be no conflict. Indeed the use of the workspace is limited to Use Class B1 and as such any activity here should be compatible with the neighbouring residential uses. Furthermore employment space is in short supply within the National Park and even small units such as this are very much sought after. Whilst the loss of this one unit might not harm the economy of the National Park, the cumulative impact of such proposals would and undermine the purposes of Development Policy 11.
- 7.2 The appellant's agent considers that Core Policy J is not relevant to this case as the appeal property is already an open market dwelling with ancillary Class B1 use and that the proposal would not undermine the principles of Core Policy J. However this is clearly not the case as the occupancy of the residential accommodation at the appeal property is restricted to those wholly or mainly employed in the associated workspace. To remove the present occupancy and use restrictions would result in the creation of an unencumbered dwelling in the open countryside which would indeed undermine Core Policy J, setting a dangerous precedent for other properties with similar occupancy restrictions such as farm workers dwellings.

7.3 The appellant's agent contends that longstanding efforts have been made to dispose of the property. However whilst the NPA has been aware of attempts to sell the property, at the time of the planning application no evidence was submitted regarding the marketing of the property for its current use as a live-work unit. The NPA has not previously had sight of the additional information contained at Appendix 9 of the appellant's appeal form but would conclude that the emails from CPH Property Services dated 16 March 2015 and Colin Ellis Property Services dated 17 March 2015 and the letter from Harrisbell Associates dated 16 March 2015 do not provide clear evidence that a concerted effort to market the property for its current use has been undertaken. There is no evidence of what marketing has taken place, at what price or for how long, and whether the restrictive conditions regarding the use and occupancy of the property have had a significant impact. In the email from Colin Ellis Property Services at Appendix 9A the author concludes that the reason the property has not sold "could be the restriction regarding the B1 Office/Workshop use imposition on the property" but there is no evidence to support this. Furthermore the NPA would question when the sales particulars attached at Appendix 9 were produced as the NPA obtained a copy of sales particulars late 2014/early 2015 (copy attached at Appendix F) which failed to mention the restrictive occupancy and use conditions, showed the workspace as two sitting rooms and a study/office on the floor plans and advertised a higher asking price of £695,000.

7.4 The NPA accept that the proposal would not result in any physical harm to the fabric of this listed building or the wider landscape of the National Park, and that is reflected in the reasons for refusal which focus on the creation of an open market dwelling in the open countryside and the loss of employment and training facilities contrary to Core Policy J and Development Policy 11.

7.5 Finally the agent argues that the imposition of the local occupancy condition would be much more onerous than the present restrictions and would limit the spectrum of available purchasers to an even greater extent. He comments that the result of the conversion works have been to create a relatively expensive dwelling which is well beyond the means of all but a few purchasers, mostly living outside the National Park, where income levels are higher. The NPA contend that the local occupancy condition is not about providing affordable housing but ensuring that the limited opportunities for new housing meet local need rather than external demand. This approach continues to be considered as an appropriate planning obligation which has been supported by a number of recent appeal decisions. A copy of a recent appeal decision against the refusal by the Yorkshire Dales National Park to discharge a planning obligation which restricts the occupancy of five dwellings to persons who have a need to live locally is attached at Appendix J.

## **8.0 Conclusion**

8.1 The NPA does not consider that the proposal satisfies the requirements of the adopted North York Moors CSDPD (2008) or the National Planning Policy Framework and considers that the appeal should be dismissed. The proposal would result in the loss of

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

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**NYM/2014/0840/FL**

valuable workshop space (Use Class B1) which is at a premium in the National Park and the creation of an open market dwelling which would undermine the housing policies of the Development Plan which seek to ensure that the limited opportunities for new housing meet local need rather than external demand. The proposal would therefore conflict with Core Policy J and Development Policy 11 of the North York Moors CSDPD (2008) in principle. Therefore, the NPA respectfully requests that the Inspector dismisses the appeal.

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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX A – Copy of Decision Notice NYM4/018/3010B/PA**

COPY

Decision No. NYM4/018/3010B/PA

TOWN AND COUNTRY PLANNING ACT, 1990  
NORTH YORK MOORS NATIONAL PARK AUTHORITY

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR  
PERMISSION TO CARRY OUT DEVELOPMENT

To The Rural Buildings Preservation Trust  
c/o The Rural Heritage Conservation Service  
Hill Centre  
Carmel  
Cumbria  
LA11 7SS

The above named Authority being the Planning Authority for the purposes of your application dated 25 June 1999, in respect of proposed development for the purposes of change of use of existing farm buildings to two units of residential accommodation with ancillary workspace (Use Class B1) at Raincliffe Farm, Lady Ediths Drive, Scarborough have considered your said application and have granted permission for the proposed development subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in accordance with the application plans as amended by the plans received at the National Park Office on the 17 September 1999.
3. Details of the stone and tiles, including samples if so required by the local planning authority, to be used for the external surfaces of the development hereby permitted shall be submitted to and approved by the local planning authority before the development is commenced and all the stone and tiles used in the construction of the building authorised by the approval shall conform to the details/samples so approved.
4. All new window frames shall be of a single glazed timber casement design with glazing bars painted a colour to be agreed in writing by the local planning authority and thereafter shall be so maintained.
5. All new doors and garage doors within the development hereby approved shall be of a vertical boarded, ledged, braced and framed timber design, side hung and single glazed, with a white, off-white, cream or a dark paint finish to be agreed in writing by the local planning authority and thereafter shall be so maintained.
6. The external face of the frame to all new windows shall be set in reveals to match those of the existing windows.
7. Prior to the commencement of the development hereby approved full details of the proposed rooflight(s) shall be submitted to and approved in writing by the local planning authority. The rooflight(s) shall be installed in accordance with the approved details and thereafter be so maintained.

Continued/8 ...

V A Dilcock

COPY

Mrs V A Dilcock  
Chief Planning Officer

10 DEC 1999  
Date .....

NOTE :-

No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under the Building Regulations, of the District Council in whose area the site of the proposed Development is situated; or of obtaining approval under any other Bye-Laws, local Acts, orders, regulations and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM4/018/3010B/PA

Date: 10 DEC 1999

Conditions (Continued)

8. The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilized in the development and shall thereafter be so maintained.
9. All rainwater goods shall be black painted cast iron and thereafter so maintained unless otherwise agreed in writing by the local planning authority.
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 dependents, unless otherwise with the prior written approval of the local planning authority.
11. There shall be no retail sales from the premises the subject of the permission hereby approved without the prior written agreement of the local planning authority.
12. The workspace elements of the development hereby permitted shall be used for Class B1 industrial purposes and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).
13. The garage(s) and car ports hereby permitted shall not be used for purposes other than domestic purposes with sufficient space maintained free of obstruction for the parking of motor vehicles associated with the adjacent dwelling.
14. The access and car parking space arrangements proposed shall be provided in accordance with the submitted drawings before the development hereby permitted is first brought into use and shall thereafter be kept available for such use and maintained clear at all times of any other obstruction.
15. Full details of the proposed means of disposal of surface water and foul drainage shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development hereby permitted and shall be provided in accordance with the approved details before the development is brought into use.

Continued/16 ...

V A Dilcock

Mrs V A Dilcock  
Chief Planning Officer

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM4/018/3010B/PA

Date: . . . . . 10 DEC 1999 . . . . .

Conditions (Continued)

16. Notwithstanding the submitted structural report received at the National Park Office on the 29 September 1999, no demolition and rebuilding shall be carried out in undertaking the development hereby permitted without first submitting full details of the extent of any demolition and rebuilding works and obtaining the prior written approval of the local planning authority for such works.

Reasons for conditions

1. To ensure compliance with Sections 91 to 94 of the Town and Country Planning Act, 1990.
2. To avoid doubt.
- 3 to 9. The local planning authority is anxious to ensure that the materials used will be in character with the materials in general use in the area.
10. To protect the amenities of the residents of the new dwellings in the interests of highway safety and because the provision of the residential accommodation is contrary to the policies of the Development 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.
- 11 & 12. To protect the amenities of the residents of the new dwellings and nearby residents in particular and this area of the National Park in general.
- 13 & 14. In the interests of the safety and convenience of users of the highway and of the free flow of traffic on the highway.
15. To avoid pollution of watercourses and ensure the proposed development has satisfactory sewage disposal facilities.
16. To enable the local planning authority to retain control over the development and in the interests of amenity and the character of the listed building.

V A Dilcock .

Mrs V A Dilcock  
Chief Planning Officer

COPY



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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX B – Copy of Decision Notice NYM4/018/3010C/LB**

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
NORTH YORK MOORS NATIONAL PARK AUTHORITY

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR  
LISTED BUILDING CONSENT

To The Rural Buildings Preservation Trust  
c/o The Rural Heritage Conservation Service  
Hill Centre  
Cartmel  
Cumbria  
LS11 7SS

The above named Authority being the Planning Authority for the purposes of your application dated 28 June 1999, in respect of the proposed internal and external alterations to allow change of use of buildings to form two residential units with ancillary workspace at Raincliffe Farm, Lady Ediths Drive, Scarborough have considered your said application and have granted consent in respect of the proposed works subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in accordance with the application plans as amended by the plans received at the National Park Office on the 17 September 1999.
3. Details of the stone and tiles, including samples if so required by the local planning authority, to be used for the external surfaces of the development hereby permitted shall be submitted to and approved by the local planning authority before the development is commenced and all the stone and tiles used in the construction of the building authorised by the approval shall conform to the details/samples so approved.
4. All new window framed shall be of a single glazed timber casement design with glazing bars painted a colour to be agreed in writing by the local planning authority and thereafter shall be so maintained.
5. All new doors and garage doors within the development hereby approved shall be of a vertical boarded, ledged, braced and framed timber design, side hung and single glazed, with a white, off-white, cream or a dark paint finish to be agreed in writing by the local planning authority and thereafter shall be so maintained.
6. The external face of the frame to all new windows shall be set in reveals to match those of the existing windows.
7. Prior to the commencement of the development hereby approved full details of the proposed rooflight(s) shall be submitted to and approved in writing by the local planning authority. The rooflight(s) shall be installed in accordance with the approved details and thereafter be so maintained.

COPY

Continued/8 ...

V A Dilcock

Mrs V A Dilcock  
Chief Planning Officer

Date . . . 10 DEC 1999 . . .

PLEASE READ THE NOTES OVERLEAF WHICH MAY QUALIFY THIS DETERMINATION

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM4/018/3010C/LB

Date: . . . 1 0 DEC 1999 . . .

Conditions (Continued)

8. The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilized in the development and shall thereafter be so maintained.
9. All rainwater goods shall be black painted cast iron and thereafter so maintained unless otherwise agreed in writing by the local planning authority.
10. Notwithstanding the submitted structural report received at the National Park Office on the 29 September 1999, no demolition and rebuilding shall be carried out in undertaking the development hereby permitted without first submitting full details of the extent of any demolition and rebuilding works and obtaining the prior written approval of the local planning authority for such works.

Reasons for conditions

1. To ensure compliance with Sections 91 to 94 of the Town and Country Planning Act, 1990.
2. To avoid doubt.
- 3 to 9. The local planning authority is anxious to ensure that the materials used will be in character with the materials in general use in the area.
10. To enable the local planning authority to retain control over the development and in the interests of amenity and the character of the listed building.

V A Dilcock

Mrs V A Dilcock  
Chief Planning Officer

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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX C – Copy of Decision Notice NYM/2004/0396/FL**

TOWN AND COUNTRY PLANNING ACT, 1990  
NORTH YORK MOORS NATIONAL PARK AUTHORITY

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR  
PERMISSION TO CARRY OUT DEVELOPMENT

To Mr and Mrs I Harrison  
C/o Denton & Denton Chartered Architects  
4 Station Shops  
Westborough  
Scarborough  
YO11 1TR

COPY

The above named Authority being the Planning Authority for the purposes of your application registered 23 June 2004, in respect of proposed development for the purposes of amendments to previously approved scheme, rebuilding of collapsed section of building (retrospective), proposed demolition and rebuilding of workshop to unit 2 and demolition of existing outbuildings and erection of garage and stables at Raincliffe Farm, Lady Edith's Drive, Scarborough, have considered your said application and have granted permission for the proposed development subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in accordance with the application plans as amended by the plans received at the National Park Department on the 30th July 2004 (amended door and window details), 6th August 2004 (amended red line), 11th August 2004 (amended window details) and 12th August 2004 (amended garage and stable block floor plan).
3. No work shall commence on site to erect the garage hereby permitted until details of the stone and tiles including samples to be used together with full elevation plans have been submitted to and approved in writing by the local planning authority. The materials used and construction of the building shall conform to the details so approved unless otherwise agreed in writing with the local planning authority
4. No work shall commence on site to erect the stables hereby permitted until details of the materials to be used together with full elevation plans have been submitted to and approved in writing by the local planning authority. The details shall provide for a timber building and the materials used and construction of the building shall conform to the details so approved unless otherwise agreed in writing with the local planning authority.

Continued/Conditions 5 to 12

V A Dilcock

COPY

Mrs V A Dilcock  
Chief Planning Officer

Date 18 AUG 2004

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM2004/0396/FL

COPY

Date: 19 8 AUG 2004

Conditions (Continued)

5. The new window frames in the development hereby permitted shall accord with the details agreed by the National Park Authority by letter dated 10<sup>th</sup> June 2004. No work shall commence on the painting of the windows in the development until details of the colour have been submitted to and approved in writing by the local planning authority. The work shall accord with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the local planning authority.
6. The external face of the frame to all new windows shall be set in reveals to match those of the existing windows.
7. All new doors shown as boarded doors on the plans hereby approved shall be of a vertical boarded, ledged, braced and framed timber design, side hung in a finish to be agreed in writing by the local planning authority. The work shall accord with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the local planning authority.
8. The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilized in the development and shall thereafter be so maintained.
9. All rainwater goods shall be black painted cast iron and thereafter so maintained unless otherwise agreed in writing by the local planning authority.
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 with the local planning authority.
11. There shall be no retail sales from the premises the subject of the permission hereby approved unless a further separate grant of planning permission has first been obtained from 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

Continued/Conditions 13 to 16

*V A Dilcock*  
Mrs V A Dilcock  
Chief Planning Officer

COPY

Date: 19 8 AUG 2004

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM2004/0396/FL

18 AUG 2004

Date: .....

COPY

Conditions (Continued)

13. Full details of the proposed means of disposal of surface water and foul drainage shall be submitted to and approved in writing by the local planning authority within 3 months of the date of this permission and shall be installed in accordance with the details so approved before the development is occupied.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order), no development within Schedule 2, Part 1, Classes A to H and within Schedule 2, Part 2, Classes A to C of that Order shall take place without the prior written consent of the local planning authority.
15. No work shall commence on site to demolish and reconstruct the section of barn on the eastern side of the building until a statement detailing the method of dismantling and reconstructing the building has been submitted to and approved in writing by the local planning authority. The statement shall provide for the re-use of the existing stone, details and position of any new stone and shall include annotated drawings of the existing and proposed elevations of the building. The work shall accord with the details so approved.
16. Prior to the commencement of any other part of the development hereby permitted, the accesses to the site shall be laid out and constructed in accordance with the following requirements:- (i) the crossing of the highway verge shall be constructed in accordance with standard detail number E9A and the specification of the local Highway Authority. (ii) any gates, barriers or other means of enclosure shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall open into the site. Note: It is an offence under section 153 of the Highways Act 1980 to permit any door, gate or bar to open outwards across a highway. (iii) that part of the accesses extending 6 metres into the site from the carriageway of the existing highway shall be at a gradient not exceeding 1 in 10. (iv) that part of the accesses extending 6 metres into the site from the carriageway of the existing highway shall be made up and surfaced in accordance with the specification of the local Highway Authority. (v) provision shall be made to prevent surface water from the site/plot discharging onto the existing highway in accordance with the specification of the local Highway Authority

Continued/Conditions 17 to 19

V A Dilcock

COPY

Mrs V A Dilcock  
Chief Planning Officer

Date 18 AUG 2004

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM2004/0396/FL

11 8 AUG 2004

Date: .....

COPY

Conditions (Continued)

17. Prior to the commencement of the development hereby permitted full detailed plans shall be submitted to show how visibility splays providing clear visibility of 2.4 metres by 70 metres measured down the centre line of the access road and the nearside channel line of the major road shall be provided at the junction of the access road with the county highway. The approved visibility splays shall then be provided prior to the occupation of either dwelling's or workshops hereby approved and once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times thereafter.
18. Prior to the first use of the development the vehicular access, parking and turning facilities shall be formed in accordance with the submitted drawing (ref: H29A 1203/10B). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times
19. Within 3 months of the date of this permission, full details of the proposed boundary treatment of the site and the hard surfacing to be utilised including driveway surfaces shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details.

Reasons for Conditions

1. To ensure compliance with Sections 91 to 94 of the Town and Country Planning Act, 1990.
2. To avoid doubt and accord with the provisions of Local Plan policy GP3
3. The local planning authority is anxious to ensure that the materials used will be in character with the materials in general use in the area in accordance with the provisions of Local Plan policy BE6.
- 4 to 9. The local planning authority is anxious to ensure that the materials used will be in character with the materials in general use in the area in accordance with the provisions of Local Plan policy BE6.
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
11. The site is in a location where retail use would be contrary to the provisions of the Local Plan in particular policy C1 and to protect the amenities of nearby residents and the amenities of this part of the National Park

Continued/Reasons for Conditions 12 to 19

V A Dilcock

Mrs V A Dilcock  
Chief Planning Officer

COPY

Date . . 11.8 . AUG . 2004 .



TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. MYM2004/0396/FL

19 8 AUG 2004

Date: .....

COPY

Reasons (Continued)

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.
13. To avoid pollution of watercourses and ensure the proposed development has satisfactory sewage disposal facilities and to reflect the provisions of Local Plan policy U4.
14. 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 policies BE6 and BE15 of the Local Plan.
15. In order to ensure that the rebuilding reflects the existing character and appearance of the barn and to comply with policy BE3 of the Local Plan.
- 16 to 18 In the interests of the safety and convenience of users of the highway and of the free flow of traffic on the highway and to reflect the provisions of Local Plan policies T7, T9 and GP3.
19. To avoid doubt and accord with the provisions of Local Plan policy GP3.

Development Plan policies relevant to the decision

Structure Plan	E1 - Environment
Local Plan	BE3 - Changes to Listed Buildings BE4 - Development affecting the setting of a Listed Building

Reason for Approval

It is considered that the scheme meets the requirements of policies BE2, BE3, H12 and GP3 of the Local Plan and that the benefits of removing the large modern agricultural building to the north of the site justify setting aside the normal requirements of policy BE14 and that the new stable/garage block is acceptable.

V A Dilcock

COPY

Mrs V A Dilcock  
Chief Planning Officer

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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX D – Copy of Decision Notice NYM/2004/0397/LB**

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
NORTH YORK MOORS NATIONAL PARK AUTHORITY

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR  
LISTED BUILDING CONSENT

To Mr and Mrs I Harrison  
C/o Denton & Denton Chartered Architects  
4 Station Shops  
Westborough  
Scarborough  
YO11 1TR

COPY

The above named Authority being the Planning Authority for the purposes of your application registered 23 June 2004, in respect of the proposed development listed building consent for amendments to previously approved scheme, rebuilding of collapsed section of building (retrospective), proposed demolition and rebuilding of workshop to unit 2 and demolition of existing outbuildings and erection of garage and stables at Raincliffe Farm, Lady Edith's Drive, Scarborough have considered your said application and have granted consent in respect of the proposed works subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The development hereby permitted shall not be carried out other than in accordance with the application plans as amended by the plans received at the National Park Department on the 30th July 2004 (amended door and window details), 6th August 2004 (amended red line), 11th August 2004 (amended window details) and 12th August 2004 (amended garage and stable block floor plan).
3. No work shall commence on site to erect the garage hereby permitted until details of the stone and tiles including samples to be used together with full elevation plans have been submitted to and approved in writing by the local planning authority. The materials used and construction of the building shall conform to the details so approved unless otherwise agreed in writing with the local planning authority.
4. No work shall commence on site to erect the stables hereby permitted until details of the materials to be used together with full elevation plans have been submitted to and approved in writing by the local planning authority. The details shall provide for a timber building and the materials used and construction of the building shall conform to the details so approved unless otherwise agreed in writing with the local planning authority.

Continued/Conditions....

V A Dilcock

COPY

Mrs V A Dilcock  
Chief Planning Officer

Date . . . 18. AUG. 2004 .

PLEASE READ THE NOTES OVERLEAF WHICH MAY QUALIFY THIS DETERMINATION

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM2004/0397/LB

18 AUG 2004

Date: .....

Conditions (Continued)

- COPY**
5. The new window frames in the development hereby permitted shall accord with the details agreed by the National Park Authority by letter dated 10th June 2004. No work shall commence on the painting of the windows in the development until details of the colour have been submitted to and approved in writing by the local planning authority. The work shall accord with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the local planning authority.
  6. The external face of the frame to all new windows shall be set in reveals to match those of the existing windows.
  7. All new doors shown as boarded doors on the plans hereby approved shall be of a vertical boarded, ledged, braced and framed timber design, side hung in a finish to be agreed in writing by the local planning authority. The work shall accord with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the local planning authority.
  8. The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilized in the development and shall thereafter be so maintained.
  9. All rainwater goods shall be black painted cast iron and thereafter so maintained unless otherwise agreed in writing by the local planning authority.
  10. No work shall commence on site to demolish and reconstruct the section of barn on the eastern side of the building until a statement detailing the method of dismantling and reconstructing the building has been submitted to and approved in writing by the local planning authority. The statement shall provide for the re-use of the existing stone, details and position of any new stone and shall include annotated drawings of the existing and proposed elevations of the building. The work shall accord with the details so approved.
  11. Within 3 months of the date of this permission, full details of the proposed boundary treatment of the site and the hard surfacing to be utilised including driveway surfaces shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details.

Reasons for Conditions

1. To comply with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Continued/Reasons....

V A Dilcock

**COPY**

Mrs V A Dilcock  
Chief Planning Officer

18 AUG 2004

Date .....

TOWN AND COUNTRY PLANNING ACT 1990

Continuation of Decision No. NYM2004/0897/LB

Date: 18 AUG 2004

COPY

Reasons (Continued)

- 2 & 11. To avoid doubt and accord with the provisions of Local Plan policy GP3.
- 3 to 9. The local planning authority is anxious to ensure that the materials used will be in character with the materials in general use in the area in accordance with the provisions of Local Plan policy BE6.
10. In order to ensure that the rebuilding reflects the existing character and appearance of the barn and to comply with policy BE3 of the Local Plan

V A Dilcock

Mrs V A Dilcock  
Chief Planning Officer

COPY

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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX E – Copy of Decision Notice NYM/2009/0676/FL**

TOWN AND COUNTRY PLANNING ACT, 1990  
NORTH YORK MOORS NATIONAL PARK AUTHORITY

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR  
PERMISSION TO CARRY OUT DEVELOPMENT

To Mr Ian Harrison  
C/o Simon Ward (Scarborough) Ltd  
3 Coldyhill Lane  
Scarborough  
North Yorks  
YO12 6SF

COPY

The above named Authority being the Planning Authority for the purposes of your application registered 2 October 2009, in respect of variation of condition 10 of planning approval NYM/2004/0396/FL to allow the occupation of the residential units by persons partly or wholly employed in the associated work place at Foxhill Paddocks, Throxenby have considered your said application and have refused permission for the proposed development for the following reason:

- 1: The proposed variation of Condition 10 of approval NYM/2004/0396/FL would effectively create an open market dwelling with ancillary workspace as opposed to a live-work unit aimed at diversifying the local rural economy. As such the proposal is considered to be contrary to Core Policy J of the NYM Local Development Framework which seeks to avoid the formation of open market dwellings in the countryside which does not meet the housing needs of the National Park.

*V A Dilcock*

Mrs V A Dilcock  
Chief Planning Officer

COPY

27 NOV 2009  
Date: .....

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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX F – Copy of sales particulars obtained by the NPA late 2014/early  
2015**

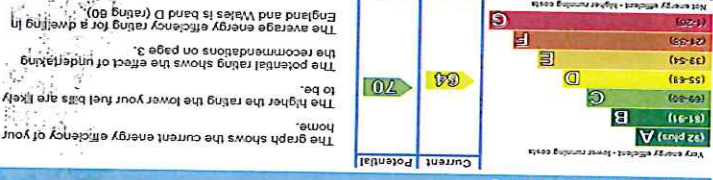


To find out more about the recommended measures and other actions you could take today to save money, visit [www.direct.gov.uk/energy](http://www.direct.gov.uk/energy) or call 0300 123 1234 (standard national rate). The Green Deal may allow you to make your home warmer and cheaper to run at no up-front cost.

3	Wind turbine	£1,500 - £4,000	£ 237
2	Solar photovoltaic panels, 2.5 kWp	£9,000 - £14,000	£ 627
1	Solar water heating	£4,000 - £6,000	£ 249

Typical savings over 3 years: £ 249  
Available with Green Deal

**Top actions you can take to save money and make your home more efficient**



**Energy Efficiency Rating**

These figures show how much the average household would spend in this property for heating, lighting and hot water. This excludes energy use for running appliances like TVs, computers and cookers, and any electricity generated by microgeneration.

Current costs	£ 600 over 3 years
Lighting	£ 600 over 3 years
Heating	£ 6375 over 3 years
Hot Water	£ 702 over 3 years
Totals	£ 7,677
Potential costs	£ 600 over 3 years
Lighting	£ 600 over 3 years
Heating	£ 6398 over 3 years
Hot Water	£ 453 over 3 years
Totals	£ 7,451

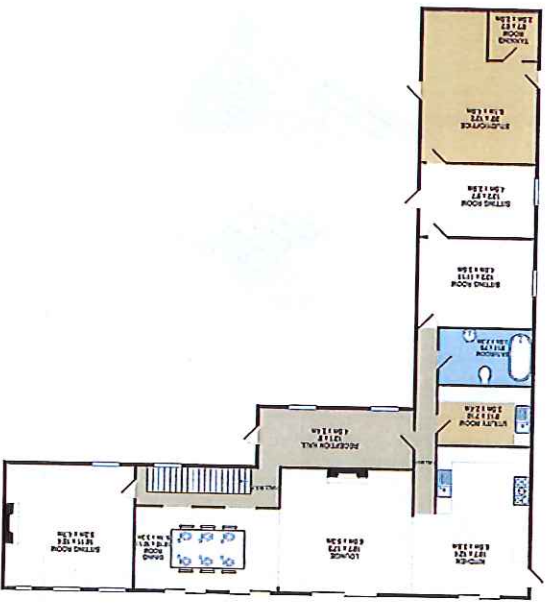
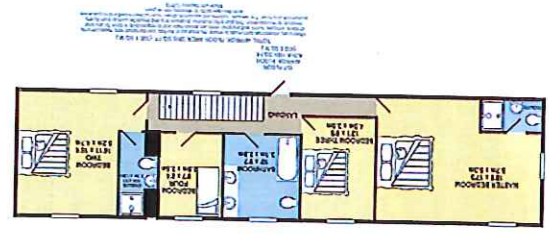
Potential future savings over 3 years: You could save £ 246

**Estimated energy costs of this home**

Over 3 years you could save	£ 246
Estimated energy costs of dwelling for 3 years:	£ 7,677

Use this document for:  
 • Date of assessment: 18 July 2012  
 • Date of certificate: 12 August 2012  
 • Reference number: 6942-6523-6380-6828-8992  
 • Type of assessment: RdSAP, existing dwelling  
 • Total floor area: 327 m<sup>2</sup>  
 • Find out how you can save energy and money by installing improvement measures  
 • Compare current ratings of properties to see which properties are more energy efficient

**Energy Performance Certificate**  
 Foxhill Paddocks, Throxenby, SCARBOROUGH, YO12 5TD



# HARRISBELL associates

**Foxhill Paddocks  
 Low Road  
 Throxenby  
 Scarborough  
 YO12 5TD**

- ✓ A Grade II Listed Home
- ✓ Stone Barn Conversion
- ✓ Approx 3 Acres Of Land
- ✓ Stables & Paddocks
- ✓ Beautiful Countryside Views
- ✓ Four Bedrooms
- ✓ Bespoke Quality Finish
- ✓ Rare To The Market

**GUIDE PRICE £695,000**

**expertise close to home**





**KITCHEN**



**DINING ROOM**



**LOUNGE**



**MASTER BEDROOM**



**BATHROOM**



**ELEVATION**



**LOCATION MAP**



The showpiece of this outstanding Grade II listed stone barn conversion is the surrounding landscape. Set in approximately three acres of the beautiful North Yorkshire Moors National Park. The property also comes with a stable block for three which will also appeal to the equine lovers. Set close to Raincliffe woods, you will find this home offers immense charm and character as well as idyllic countryside views just a few minutes drive from Scarborough. Beamed ceilings, open stone walls and floors, fireplaces mixed with modern bespoke fittings. The accommodation is set out in two wings and briefly comprises; rear facing bespoke kitchen, to lounge, dining room, separate sitting room, hallway, feature stairs, landing, four bedrooms, two of which have en-suites, family bathroom. The west wing utility room, ground floor bathroom, two sitting rooms, office /study, tanning room and mezzanine store.

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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX G – Copy of North York Moors Core Strategy and Development  
Policies Document (CSDPD) Development Policy 22**

## **Development Policy 22 – Removal of Agricultural Occupancy Conditions**

The removal of agricultural occupancy conditions will only be permitted where it can be demonstrated that there is no longer a need for the accommodation on the holding or in the locality. Where permission is granted, the condition will be substituted with one which restricts occupancy to local needs as defined in Core Policy J. Where a local person cannot be found to occupy the dwelling permission may be granted for temporary holiday use or rented accommodation for local needs.

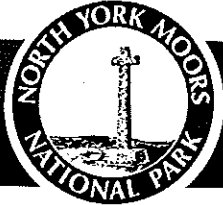
- 9.27 Proposals for new dwellings to meet the needs of a person employed in agriculture, forestry or other essential land management activities may be permitted in Open Countryside where the criteria set out in Annex A of Planning Policy Statement 7 are fully met. However, due to changing farm practices and the vulnerability of the agricultural sector there may be occasions where dwellings constructed for agricultural workers permitted in accordance with Planning Policy Statement 7 are no longer required. In such circumstances Planning Policy Statement 7 says that units should not be kept vacant, nor should the present occupants be unnecessarily obliged to remain in occupation simply by virtue of the agricultural occupancy condition. If it is demonstrated that there is no longer an agricultural need for the accommodation the Authority may consider allowing the owners to find an alternative use for the accommodation such as holiday use or rented accommodation for people who meet the local occupancy condition criteria. However, if the owner wishes to dispose of the dwelling the agricultural occupancy condition will be replaced with a local occupancy condition as set out in Core Policy J to ensure the dwelling serves a local housing need.



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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX H – Copy of the North York Moors Planning Advice Note:  
Conversions and the Economic Use Test**



# Planning Advice Note

## Conversions and the Economic Use Test

### Purpose

The National Park Authority is keen to retain existing tourism facilities, shops, public houses and economic services wherever possible. Within the National Park there are number of traditional and non traditional buildings which are no longer required for their original purpose. Many of these buildings are likely to be suitable for re-use for economic purposes which can operate without affecting the special qualities and tranquillity of the Park. The National Park Authority is keen to ensure that opportunities for re-use for these activities is prioritised over the conversion for residential use as this does not benefit the economic vitality of local communities but is often a more financially lucrative option for the individual property owner. The Authority also recognises the importance retaining local services has on the continued vitality and sustainability of settlements.

The advice set out will apply to existing commercial enterprises (employment generating uses) and community facilities where change of use for permanent residential use is proposed.

The purpose of the advice note is to provide guidance in two circumstances, firstly where proposals are for a change of use of established 'enterprise uses' and secondly where a proposal is for a change of use to a redundant building, which is not yet in 'enterprise use'. The advice note will set out in detail what information applicants will need to supply to the National Park Authority with any formal planning applications of this nature.

### Background

Within the North York Moors National Park community facilities like, shops, chapels, Post Offices and Public Houses often serve a network of small communities and are therefore considered an essential part of sustaining inclusive communities. Due to the nature of the Park there are limited opportunities for economic growth and therefore there is also a need to try and retain enterprises that offer employment opportunities for local people where possible.

### Background Continued ...

The National Park Authority receives many enquiries relating to the conversion of these properties for residential use, however there may be other opportunities for their continued or alternative uses which would continue to sustain the viability and provide employment opportunities for those living in the community. It is therefore necessary for a robust marketing exercise to be carried to ensure that potential uses are fully considered before valuable facilities are lost.

### National Policy Framework

The English National Parks and the Broads – UK Government Vision and Circular 2010 contains the objective to foster and maintain vibrant, healthy and productive living and working communities. The Circular goes on to emphasise the necessity of a diverse and balanced economic base.

Planning Policy Statement 4 'Planning for Sustainable Economic Growth' says that Local Planning Authorities should support the conversion and re-use of appropriately and suitably constructed existing buildings in the countryside (particularly those adjacent or closely related to towns or villages) for economic development. Policy EC12 says that the re-use of buildings for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations and for some types of buildings.

## **North York Moors National Park Authority Core Strategy and Development Policies**

Development Policy 11 states that proposals for the re-use of existing employment sites and training facilities for other purposes will only be permitted where the premises are not capable of beneficial re-use for economic purposes or the new use would result in a significant improvement to the environment or to access and highways arrangements, which outweighs the loss of employment land. The supporting text of the policy goes on to say that in exceptional circumstances the retention of an employment/training facility may no longer be viable as it cannot be re-used for alternative employment purposes or the activity is having an undesirable impact on nearby users. In these circumstances applicants will need to adequately demonstrate the limitations of the current building to the Authority and to demonstrate through an appropriate marketing exercise that re-use for economic purposes is not viable.

Development Policy 15 Loss of Existing Tourism and Recreation facilities says that proposals that would result in the loss of an existing tourist or recreation facility will only be permitted where it can be demonstrated, to the satisfaction of the National Park Authority, that the business is no longer viable. The supporting text goes on to say that the Authority seeks to retain existing facilities unless it can be robustly demonstrated that the business is no longer viable, through the submission of relevant financial information.

Core Policy 1 says that the loss of community facilities will be resisted unless it can be demonstrated that it is no longer suitable or viable for a community use. The supporting text goes on to say that the access to community facilities and services are considered an essential element of sustainable and inclusive communities.

Development Policies 5 and 8 will also need to be taken into consideration where an application seeks to convert a listed building or traditional unlisted building.

### **Which Uses Will the Viability and Marketing Tests Apply To?**

Applicants will need to apply the viability and marketing tests when they wish to change existing community facilities/economic uses into permanent residential use and includes the following:-

- Public Houses
- Shops
- Churches/Chapels
- Schools
- Village Halls
- Tourist Facilities
- Recreational Facilities
- Other Employment Uses

### **Which Uses Will the Viability and Marketing Tests Apply To? Continued ...**

It should be noted that holiday letting and local needs letting are considered to be an economic use and therefore in circumstances for the change of use to this purpose the viability and economic use tests will not be applicable.

For the purposes of clarity all these uses shall be referred to as an enterprise in the remainder of the advice note.

### **Demonstrating that the Building is Unsuitable**

In exceptional circumstances it may not be possible to convert an existing building for economic use due to very specific restraints for example being in close proximity to dwellings.

The applicant will need to provide details outlining the particular locational and/or structural constraints relating to the property. On receipt of this information the National Park Authority may conclude that it is not necessary to carry out the viability and marketing assessments, however this is likely to be a very rare occurrence.

### **Demonstrating that the Enterprise is No Longer Viable**

In the case of community facilities, schools and religious buildings information will be required about alternative available facilities in the proximity, user numbers etc which adequately demonstrate that the building is surplus to requirements.

In cases where the proposal is for the conversion of an existing commercial premises applicants will be asked to supply trading accounts over a period of 5 years for the existing enterprise. Depending on the nature of the enterprise this may need to be broken down into different components of the business. This information may then be assessed by an independent financial appraiser appointed by the National Park Authority. The details provided will remain confidential throughout the determination of the planning application and will be retained on our records as such.

## Marketing Requirements

Applicants must provide evidence that a comprehensive marketing exercise to dispose of the existing enterprise has been carried out. In most cases applicants will need to carry out a minimum of 12 to 24 months active marketing depending on the circumstances of the case, which should include;

1. The use of an established commercial agent
2. Advertising in the local and regional press as follows

Usually a minimum of one advert per month in at least one of the following local newspapers depending on the location of the property in question:

- Whitby Gazette
- Malton Gazette and Herald
- Darlington and Stockton Times
- Scarborough Evening News
- Middlesbrough Evening Gazette
- Or any other paper, which can be shown to provide coverage of the area in question.

A minimum of two adverts over the marketing period in a relevant national publication e.g. Dalton's Weekly, Estates Gazette.

3. Where appropriate, registration of the availability of the property on the relevant Local Authority Commercial Property Database (see contacts section for further details).

Applicants will be asked to provide details of the marketing particulars including the details of the agency with which the property has been marketed and the asking price. The National Park Authority will also request written details of all enquiries received and the reasons why potential buyers/leaseholders found the buildings to be unsuitable or why proposed offers were not accepted. In some circumstances the National Park Authority will need to seek independent advice as to whether a realistic sale price or leasehold rent has been set.

## Determining the Planning Application

The National Park Authority will need to be satisfied that the viability and marketing exercises have been carried out robustly and in accordance with the criteria set out above. Where reference is made to the availability of other buildings for economic purposes the National Park Authority will need to make a judgement about whether comparisons may be drawn, for example the availability of a modern industrial unit is likely to cater for a different user to that of a converted farm building.

## Contact Lists

### Scarborough Borough Council

Estates Assistant  
Estates Services  
Town Hall  
St Nicholas Street  
Scarborough  
YO11 2HG

Email: [estates@scarborough.gov.uk](mailto:estates@scarborough.gov.uk)  
Telephone: 01723 232412

<http://business.scarborough.gov.uk/Default.aspx?page=6849>

### Ryedale District Council

Asset Management Officer  
Ryedale District Council  
Ryedale House  
Malton  
YO17 7HH

Telephone: 01653 600666

[www.York-england.com](http://www.York-england.com)

### Hambleton District Council

Economic Development Officer  
Hambleton District Council  
Civic Centre  
Stone Cross  
Northallerton DL6 2UU

Telephone: 01609 767050

[http://www.hambleton.gov.uk/business/commercial\\_property/commercial\\_lettings/register.htm](http://www.hambleton.gov.uk/business/commercial_property/commercial_lettings/register.htm)

### Redcar and Cleveland

Redcar and Cleveland Borough Council  
Belmont House  
Rectory Lane  
Guisborough  
TS14 7FD

Telephone: 01642 774774

<http://www.redcar-cleveland.gov.uk/main.nsf/Web+Full+List/D305CFBAB8AF8F1A80256B8F0039254F?OpenDocument>



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

**APP/W9500/W/15/3039152**  
**NYM/2014/0840/FL**

**APPENDIX J – Copy of a recent appeal decision in the Yorkshire Dales  
National Park regarding local occupancy conditions**



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## Appeal Decision

Site visit made on 28 January 2014

by **B.S.Rogers BA(Hons), DipTP, MRTPI**

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

Decision date: 3 February 2014

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**Appeal Ref: APP/C9499/Q/13/2200252**

**Land at Pant Head, Pant Lane, Austwick, Lancaster, LA2 8BH**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
  - The appeal is made by Kerrowmere Ltd against the decision of Yorkshire Dales National Park Authority.
  - The development to which the planning obligation relates is the erection of 5 local occupancy dwellings.
  - The planning obligation, dated 16 February 2010, was made between the Yorkshire Dales National Park Authority Council and Dennis Patrick O'Hagan, Elaine O'Hagan and Clydesdale Bank PLC.
  - The application Ref: C/04/148J, dated 3 April 2013, was refused by notice dated 13 June 2013.
  - The application sought to have the planning obligation discharged.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the obligation continues to serve any useful purpose in land use planning terms.

### Reasons

3. Planning permission was granted on 26 February 2010 for 'the erection of 5 local occupancy dwellings' at the appeal site (Ref: C/04/148E), following the completion of the planning obligation which is the subject of this appeal. The obligation limits the occupancy of each of the 5 dwellings to a person or persons who have proved a need to live locally, as defined in detail in the obligation. The planning permission was subject to a material amendment on 16 September 2011 (Ref: C/04/148H) and a deed of variation of the obligation was issued to reflect this amendment.
4. The appellants initially question the obligation on 2 matters. The first is whether a planning obligation can, in principle, lawfully restrict occupation. However, S106(a) of the Act allows for an obligation to restrict the development or use of the land in any specified way. I see no reason why that should not include the restriction of occupancy, which is the case here, so long as it serves a proper planning purpose, a matter which I shall come to later. The second question is whether the deed of variation was fatally flawed as the appellant claims it was not signed by the lawful owner. However, I do not have the information before me to come to a view on that question; that appears to me to be a matter for the courts.

5. At the time that the 2010 planning permission was granted, Policy H2 of the Yorkshire Dales Local Plan (LP) (2006) supported new housing within National Park (NP) service villages (including Austwick) where it would meet a local need. Such planning permissions were to be subject to legal obligations restricting the occupancy of new dwellings in perpetuity to meet the local needs as defined in detail in para.4.39. This definition accords with that contained in the planning obligation which is the subject of this appeal. The Yorkshire Dales National Park Housing Development Plan (HDP) (2012-2015) was adopted in 2012 and has now replaced the housing policies in the above Local Plan. Policy HDP2 has replaced Policy H2 and is similar in terms of requiring occupancy of all housing to be restricted permanently to the categories of local housing need set out in Appendix 1; these categories are effectively the same as those listed in the obligation.
6. One of the main aims of Policy HDP2 is to permanently widen the supply of local market housing. Restricting the type of household that can occupy new local market housing prevents those dwellings from being lost to external market demands, for example occupation as second or holiday homes. It also has the secondary effect of reducing their price and therefore makes them more accessible to households inside the NP, where there is a great disparity between house prices and average household income. The supporting text points to the limited environmental capacity within the NP for new build dwellings. Accordingly, the consequent limited supply of new dwellings should be used and retained to meet the economic and social needs of households within the NP and not wider demand, which is already well supplied from within the existing unrestricted housing stock.
7. The HDP was subject to public consultation and an independent public examination and was adopted after the emergence of the National Planning Policy Framework (NPPF). The NPPF gives great weight to conserving the landscape and scenic beauty in NPs, part of which must entail having regard to the limited environmental capacity within the NP for new build development. The NPPF advises local planning authorities to identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand. Having regard to the evidence base of the North Yorkshire Strategic Housing Market Assessment (2011) the Authority has done that and the HDP has identified the particular housing problem in the NP. It provides for the limited supply of new dwellings to be used and retained to meet the economic and social needs of households within the NP and not wider demand. I am therefore of the view that the obligation was needed in 2010 to meet the Authority's objective of building up a stock of market housing that is available to local people in accordance with LP Policy H2. It remains necessary today for the same reasons to meet the objectives of HDP Policy HDP2.
8. The obligation appears to me to meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. These are that the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and, (c) fairly and reasonably related in scale and kind to the development. The development would have been contrary to adopted development plan policy without the obligation and I am satisfied that it would have been refused. The policies referred to above are specific to the Yorkshire Dales National Park and the other cases in North Wales and the Lake District, referred to by the appellants, are therefore not directly comparable.



9. The appellants have challenged a number of aspects of the obligation which I shall now go on to address. First, although Circular 11/95: *The Use of Conditions in Planning Permissions* does not refer explicitly to obligations, it states that " .. if the development of a site for housing is an acceptable use of the land there will seldom be any good reason on land-use planning grounds to restrict the occupancy of those houses to a particular type of person (eg those already living or working in the area)." However, it advises that conditions restricting occupancy to a particular occupier or class of occupier should only be used when special planning grounds can be demonstrated and where the alternative would be a refusal of permission. That appears to me to be exactly the situation here, where the obligation is soundly based on a formally adopted policy which reflects local circumstances. The fact that the Circular refers to one house, when there are 5 in this case is not in my view of great significance to this issue. I see no compelling reason why advice on a single dwelling should not apply to a greater number of dwellings.
10. The appellants have referred to a decision of the European Court of Justice relating to a Flemish Decree that sought to limit persons who could buy/lease property in the area to those who met a local connection requirement (Ref: CJE/13/57 – 2013). The Decree was considered to go beyond EU law in that the restrictions were intended to protect the needs of the less well off but they could also apply to persons who were affluent and had no need of such protection. They therefore exceeded what was necessary to achieve the intended objective. However, Policy HDP2 is one of a number of policies with the aim of delivering the housing strategy referred to above. There is provision for affordable housing as well as market housing but one of the main aims is to improve the social and economic vibrancy of the local communities, including resisting second or holiday homes. It is not the overriding intention of the policy to reduce house prices, albeit that is a likely consequence where occupancy is limited.
11. The appellants argue that the dwellings are impossible to sell. However, there is no evidence of what marketing has taken place, at what price and for how long, and whether the occupancy restriction has had a significant impact. There is also no evidence as to the current state of the local market at a time when financial restraint has been evident in much of the country. The appellants also point to potential problems with obtaining mortgages. However, whilst there may be fewer potential lenders, it is not argued that it is not possible to obtain a mortgage for dwellings with occupancy restrictions. Such restrictions have been commonplace for years, particularly in the case of agricultural or forestry workers.
12. I can see no justification for the claim that the obligation breaches Article 8 of the Human Rights Act 1998. The obligation was sought for a legitimate aim, in accordance with duly adopted planning policy for this local area. The appellants also claim that Protocol 1, Article 1 is breached in that a public authority cannot impose restrictions on a person's use of their property. However, such interference may be justified where there is a proper legal basis for this interference and such interference is justified in the public interest. I am satisfied that is the case here.
13. In conclusion, the case put forward by the appellants is not of sufficient weight to persuade me that an exception should be made to the policy set out in the development plan. The obligation was required originally in 2010 for the

legitimate planning purpose of restricting and retaining the occupancy of new dwellings built within the Yorkshire Dales National Park to those persons with local needs. The present development plan continues to pursue a similar strategy and I am therefore of the view that the obligation continues to serve a useful purpose in land use planning terms. None of the other matters raised is sufficient to alter this conclusion. Accordingly, for the reasons set out above, I have decided that the appeal should fail.

*B.S. Rogers*

Inspector