

North York Moors National Park Authority

Scarborough Borough Council (South) Parish: Newby and Scalby	App Num. NYM/2014/0840/FL
---	----------------------------------

Proposal: 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

Location: Foxhill Paddocks, Low Road, Throxenby

Applicant: Mr Iain Harrison, Foxhill Paddocks, Low Road, Throxenby, Scarborough, North Yorkshire, YO12 5TD

Agent: Mr John Blaymires, 56 Pasture Lane, Seamer, Scarborough, North Yorkshire YO12 4QR

Date for Decision: 09 February 2015

Grid Ref: SE 500430 488999

Director of Planning's Recommendation

Refusal for the following reasons:

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.

Consultations

Parish – Objects to what is essentially an application to create a new dwelling for the following reasons:

- It has not been demonstrated that the premises are capable of beneficial re-use for economic purposes in accordance with Development Policy 11;
- There is no justification for the occupation of the subsequent dwelling to be unrestricted contrary to Core Policy J.

Advertisement Expiry Date – 29 January 2015

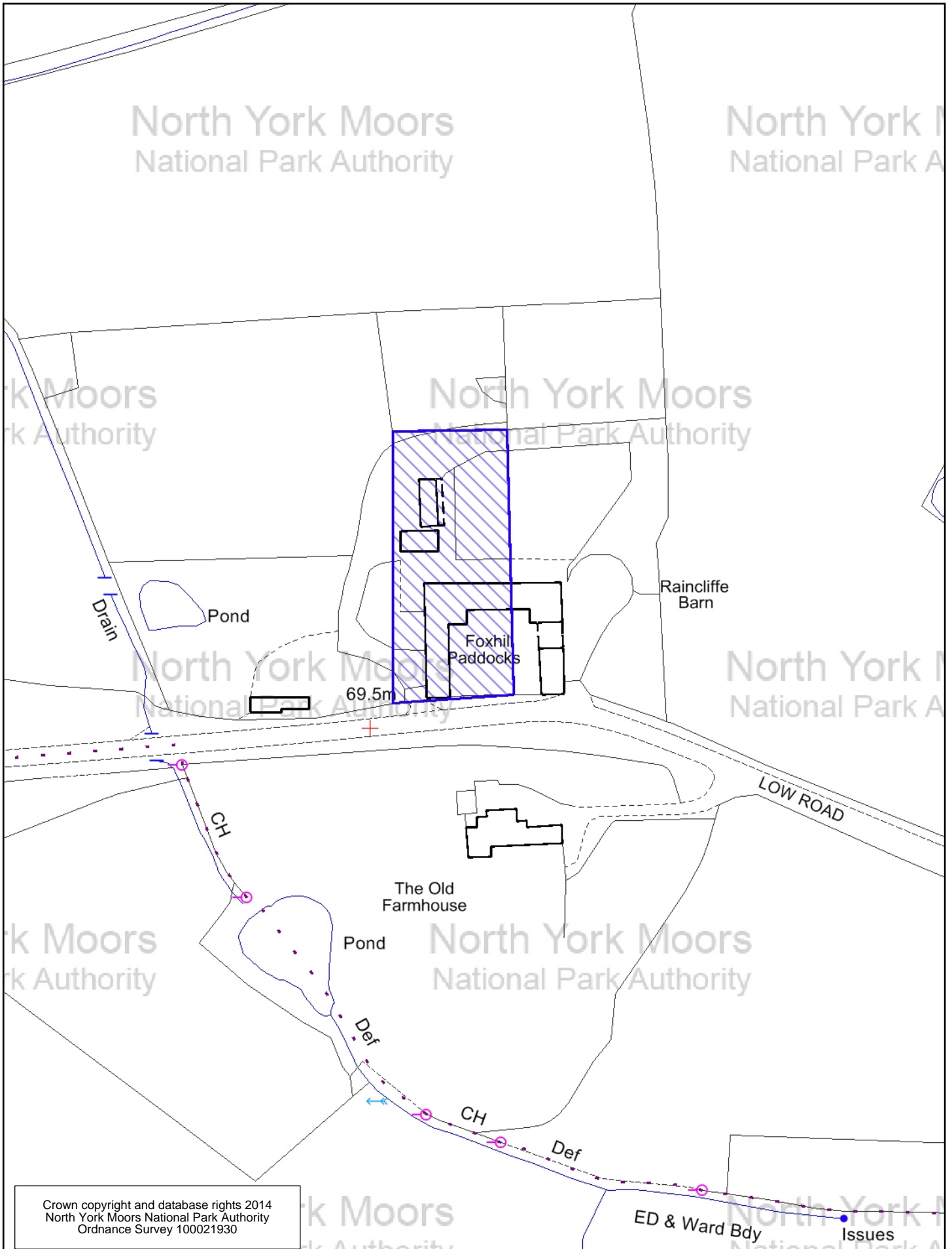
Others – Nigel Finnigan, 3 Pearson Garth, West Ayton – Supports the application for the following reasons:



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

Application Number: NYM/2014/0840/FL

Scale: 1:1250



Crown copyright and database rights 2014
 North York Moors National Park Authority
 Ordnance Survey 100021930

ED & Ward Bdy Issues

Application No: NYM/2014/0840/FL

Others (continued)

- 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.

Carl Horsfall, 8 Plover Gardens, Crossgate, Scarborough – Supports the application for the following reasons:

- 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.
- The Government encourages the development of underused properties.
- 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.

Freddie Drabble, Sharlow, Scalby Road, Scalby - Supports the application for the following reasons:

- The restriction only applies to a small part of the property and will enable it to become a family dwelling.
- Its removal will not affect the external appearance of this Listed Building in any way.
- Government policy is in favour of changes to farm buildings to satisfy the demand for residential accommodation.

Background

Foxhills Paddock is a substantial dwelling with associated workspace situated on the north side of Raincliffe Woods, between Ox Pasture Hall to the west and Throxenby to the east, formerly part of Raincliffe Farm. It is one of a pair of former stone barns, situated in a courtyard arrangement, both of which are Grade II Listed Buildings. The buildings had been in a state of deterioration and disrepair for a number of years before planning permission and Listed Building consent were granted in December 1999 for the change the use of existing farm buildings into two units of residential accommodation with associated workspace (Use Class B1) (NYM4/018/3010B/PA and NYM4/018/3010C/LB).

Subsequently planning permission and Listed Building consent were granted in August 2004 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' (NYM/2004/396/FL & NYM/2004/0397/LB). Conditions 10 and 12 of the planning permission govern the use of the property and read 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

Application No: NYM/2014/0840/FL

Background (continued)

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.

Then in November 2009 and March 2010 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 and NYM/2010/0003/FL) with no subsequent appeal against these decisions.

Therefore conditions 10 and 12 of the planning permission NYM/2004/0396/FL restricting the use of the property are still valid and this application seeks to remove both conditions to create an open market and unrestricted dwelling. From the sales particulars the workspace is now used as two sitting rooms and a home office/study with tanning room in breach of the conditions attached to the planning permission.

In support of the application the agent has commented as follow:

The relevant conditions were originally imposed under a now redundant policy and since that time the property has been improved and changed such that it is now a large family house and the conditions are out-of-date.

The conditions are very restrictive and unreasonable since planning policy has changed. Officer advice at pre-application stage was that should these conditions be lifted they would be replaced by a local occupancy condition. However this would be too restrictive because a large family dwelling of this nature has a very restrictive market in any case due to its size and consequent high value. To impose further restrictions would render the property unsaleable and it could become unoccupied.

In April 2014 changes were made to permitted development rights to allow residential use of agricultural buildings and although these do not apply to Listed Buildings within the National Park, it is an indication of the Government's intention for a more flexible approach to changes of use in agricultural situations and for Authorities to make more dwellings available without major restrictions. The limitations on this permitted development rights are to make sure that alterations to Listed Buildings are carried out without detriment to the buildings concerned. In this case there would be no alterations and the removal of the conditions would not have an adverse impact on the environment. Therefore it is argued that the removal of the restrictive conditions so that the property can be sold on the open market is in the spirit of Government policy.

Main Issues**Policy**

The most relevant policies of the NYM Local Development Framework are considered to be Core Policy J and Development Policies 11 and 22.

Under Core Policy J new housing development in the open countryside is restricted to that which is proven as essential for farming, forestry or other essential land management activities, replacement dwelling and the 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,

Application No: NYM/2014/0840/FL

Main Issues (continued)

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.

Development Policy 22 deals with the relaxation of agricultural occupancy conditions and states that such proposals will only be supported where it can be demonstrated that there is no longer a need for the accommodation for a farm worker on the holding or in the locality, and where permission is granted the 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 re-inforce the Authority's position on unrestricted dwellings in the open countryside.

The National Planning Policy Framework (NPPF) encourages Local Planning Authorities to promote a strong rural economy through, amongst other criteria, the development and diversification of agricultural and other land based rural businesses. It also advises that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as through the re-use of redundant or disused buildings which leads to an enhancement of the immediate setting. to promote sustainable development in rural areas housing

Loss of Employment Use

The application seeks the removal of the existing conditions which presently restrict the use of the workspace to 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 whether the use of the workspace has now ceased although the sales particulars for the property indicate that the workspace is now used as two sitting rooms and a home office/study with tanning room. However the Authority 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 this 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.

The Authority'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 to demonstrate the limitation of the building for continued employment use and to demonstrate through an appropriate marketing exercise that re-use for economic purposes is not viable. The applicant has not submitted any evidence of marketing the property for its current mixed use and as such the proposal would result in the loss of an economic use contrary to Development Policy 11.

Removal of Occupancy Condition

The use and occupancy conditions were imposed on the original planning permission in 1999 and 2004 because the conversion of barns in open countryside were restricted to employment use only and independent residential use was not supported under the previous Local Plan Policies. The proposal for a live-work unit was considered at the time to be a form of farm diversification and whilst not strictly in accordance with the policy in force at the time, would facilitate the renovation of a range of Grade II Listed Buildings.

The current Local Development Framework under Core Policy J seeks to widen the potential use of barn conversions in open countryside to include residential letting for local needs, which provides an economic benefit but also as a means to provide much needed local housing. As the barns have

Application No: NYM/2014/0840/FL

Main Issues (continued)

already been converted and sold separately to the original farmhouse it is not considered appropriate to restrict the use of the property to residential letting for local needs only, but the imposition of the local occupancy condition is considered a reasonable alternative approach to the current restriction.

Given the Development Plan seeks to prevent open market housing in the countryside, Officers consider that the principle of the removal of the conditions restricting the use and 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 Authority's normal 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 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 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 existing condition should be replaced with a local occupancy condition. However the application 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 application is recommended for refusal.

In his supporting letter the 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 farm diversification in the form of a live-work unit.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.