

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Mr R Walker

Against: Refusal of planning permission for the change of use of land to form
2 no. grass runways and construction of pilot/restroom building
(revised scheme to NYM/2014/0819/FL)

Location: South Moor Farm, Langdale End, Scarborough

**Local Planning Authority Statement by Hilary Saunders BA BTP MRTPI,
For Written Representations Appeal**

Contents

- 1.0 Introduction
- 2.0 Relevant Site History
- 3.0 The Proposal and the Decision
- 4.0 Planning Policy Background
- 5.0 Local Planning Authority's Case
- 6.0 Relevant Appeal Decisions
- 7.0 Comments on Previous Appeal Decisions relating to South Moor Farm
- 8.0 Comments on Appellants Claim for Costs
- 9.0 Conclusion
- 10.0 Appendices –
 - A – Rights of Way map
 - B – Archaeology map
 - C – Copy of Planning and Enforcement Appeal Decisions for Similar Proposal within Exmoor National Park.
 - D – Copy of a Letter from The Government Office for the South West Following the Call in of a Subsequent Airfield Application within Exmoor National Park.
 - E – Proposed Conditions
 - F – Director of Planning's Letter to Planning Inspectorate

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

1.0 Introduction

- 1.1 This Statement refers to the refusal of planning permission for the change of use of land to form 2 no. grass runways and construction of pilot/restroom building at South Moor Farm in Langdale End near Scarborough, by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA). The decision notice was dated 15 January 2016.

1.2 Site and Surroundings

Dalby Forest

- 1.3 South Moor Farm is located within Dalby Forest which is situated on the southern slopes of the North York Moors National Park. The southern part of the forest is divided by a number of valleys creating a 'Rigg and Dale' landscape whilst to the north the forest sits on the upland plateau; which is where South Moor Farm is situated.
- 1.4 Dalby is a significant tourist destination in the region and is termed by the Forestry Commission as "The Great Yorkshire Forest". It is used for quiet outdoor active recreation as well as timber production and consequently contributes greatly to the local economy. Whilst the majority of the land and forestry is owned by the Forestry Commission there are also a large number of private households, farms and tourist related businesses within the forestry area.
- 1.5 It offers over 8,000 acres of upland woodland to explore and enjoy, including play areas for children, barbecue sites, numerous waymarked walking trails and 55 miles of mountain bike trails for all abilities as well as a "Go Ape" which offers a tree top adventure centre for all ages and segway hire and trails.
- 1.6 The main visitor centre located at the western edge of the forest has a café and shop, which is adjacent to a selection of other businesses including a bike hire centre and shop and Go Ape; this is the area of concentrated activity, although there are several informal small car parks throughout the forest to explore other parts of the site.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

- 1.7 The Dalby Observatory is located adjacent to the visitor centre and is recognised as being one of the best places to enjoy the night sky in the country and was declared a Dark Sky Discovery Site on BBC Two's Stargazing LIVE in January 2013.
- 1.8 South Moor Farm itself is located on the Dalby Forest Drive, approximately 1.5km to the south west of the Dalby Forest Toll gate at Bickley and approximately 5.5km to the north east of the Dalby Forest Visitor Centre. The farm is situated within a large clearing within the forest on undulating land with the existing farm buildings visible from the Forest Drive. This is at the north eastern edge of the Forest and is in an area characterised by a feeling of remote rurality and peaceful valleys well away from the main visitor focus of Dalby Forest.
- 1.9 The farm is run as a small agricultural business with 40 hectares of grazing land for sheep and cows and a Bed and Breakfast facility comprising four rooms (one twin, one double, one family and one single) operating from the main farmhouse.

2.0 Relevant Site History

- 2.1 Planning permission was refused by the Local Planning Authority and subsequently dismissed at appeal in 2014 for the change of use of land to provide 2 no. grass runways, an aircraft hangar building and construction of pilot/restroom building.
- 2.2 This application was refused on the grounds of unacceptable levels of noise and activity which would be detrimental to the amenities of local residents and the experience of visitors as well as harm to the tranquillity of the area; that the building would be substantial in size with poor quality materials and design and that the proposed development would have an adverse impact on the enjoyment of users of the Public Rights of Way.
- 2.3 The proposal was dismissed at appeal, but the Planning Inspector considered that the greater harm was likely to be the size, design, material and location of the proposed hangar building rather than disturbance to users of the Rights of Way network and noise disturbance.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 2.4 A second planning application for a similar development to the first proposal was refused by the Local Planning Authority and subsequently dismissed at appeal in 2015, for similar reasons to the first application. The revised application differed only from the previously refused scheme in terms of the size, design, materials and location of the proposed hangar building. The second Inspector accepted the first Inspector's view that the proposal would not have a detrimental impact on tranquillity of this part of the National Park and awarded costs against the National Park Authority for refusing the application on the grounds of tranquillity and the setting of the scheduled monuments.
- 2.5 In response to this Members of the National Park Authority asked that the Acting Chief Executive of PINs (Steve Quartermain) be contacted querying the reasoning behind the Inspector's conclusions that the Authority had acted in an unreasonable manner. Members were specifically concerned about the lack of explicit reference in the Inspector's report to legislation and government policy on National Parks in the NPPF and the 1995 Environment Act. The Authority considers that there was no evidence in the reporting of the two previous appeal decisions that the issue of tranquillity in its wider sense as a 'Special Quality' of the National Park (and which therefore is recognised by legal statute) was properly addressed. The clear conflict between the proposed development and the Purposes for which National Parks were designated and protected is still at the heart of the Authority's objection to it. A copy of this letter is attached as Appendix F.
- 2.6 Both applications proposed that the main runway would comprise a 600 metre grass strip aligned south west to north east, with an auxiliary runway, comprising a 400 metre grass strip aligned west to east to be used when strong cross winds. It was also stated within both applications that the facility would be restricted to experienced pilots flying to and from the area with no training flights, practice circuits or aerobatics.

3.0 The Proposal and the Decision

- 3.1 The planning application to which this appeal relates was validated on 10 November 2015. It differed from the previously refused schemes in that it did not include a proposal for an aircraft hangar building, and sought permission only for the change of use of land to form two grass runways and to construct a pilot/restroom building.
- 3.2 The supporting information again stated that flights would be restricted to daylight hours only, with no training flights, practice circuits or aerobatics and with a maximum of 20 aircraft movements a day (representing 10 take-offs and 10 landings and on average five visits per week by car).

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 3.3 As with the previously refused applications it was proposed that the main runway would comprise a 600 metre grass strip aligned south west to north east, with an auxiliary runway, comprising a 400 metre grass strip aligned west to east to be used when strong cross winds.
- 3.4 It was again stated within the application that the facility would be restricted to experienced pilots flying to and from the area with no training flights, practice circuits or aerobatics.
- 3.5 The National Park's Planning Committee resolved to refuse the application at its meeting on 14 January 2016 and the Refusal Decision Notice was issued on 15 January 2016 with the following reasons:
1. *The Local Planning Authority considers that the proposal would not provide a type of recreational activity that would further the understanding and enjoyment of the National Park's special qualities, and would be likely to generate a level of noise and activity that would seriously harm the tranquillity of the area and be detrimental to the amenities of local residents and the experience of visitors. The proposal would therefore be contrary to Core Policies A and H and Development Policy 14 of the NYM Local Development Plan.*
 2. *In the view of the Local Planning Authority the proposed development would have an adverse impact on the enjoyment of users of the Public Rights of Way which run through the site, both in terms of noise and disturbance and public safety. The proposal is therefore contrary to Development Policy 23 of the NYM Local Development Framework.*
 3. *The Local Planning Authority considers that the cumulative impact of the visible presence of standing aircraft, combined with subsequent aircraft movements and the associated aircraft activity and noise on this exposed agricultural holding would change the character of the site to an airfield rather than a farm holding, to the detriment of the tranquillity of the area. The proposal would therefore be contrary to Core Policies A and H and Development Policy 14 of the NYM Local Development Plan.*
 4. *It is considered that insufficient information has been submitted to determine whether the proposal will have a likely significant effect on the interest features of the North York Moors Special Protection Area (SPAs) because flights from the proposed airstrip could potentially cause disturbance to SPA birds, which may use offsite feeding areas closer to the proposal site, as well as the SPA itself. The proposal is therefore contrary to Core Policy C of the Local Development Plan*

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

5. *The context of the application site is that it is surrounded by designated heritage assets of the highest importance. The activity generated by flight movements and the impact of stationary aircraft is likely to have a negative impact on the public experience and enjoyment of, and thus the setting and significance of these designated heritage assets. Whilst the level of harm is considered to be "less than substantial", under policy 134 of the NPPF such harm must be weighed against the public benefits of the proposal. In the case of this proposal the level of public benefits are insufficient to outweigh the resultant harm to these designated heritage assets of the highest importance.*

4.0 Planning Policy Background

4.1 This section covers both the Development Plan and the general implications of location in a National Park.

4.2 Location in the National Park. The two purposes of the National Parks in England and Wales were originally stated in the 1949 National Parks and Access to the Countryside Act and were revised in the 1995 Environment Act and stated in the English National Parks and the Broads UK Government Vision and Circular 2010. They are:

- *"to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks" and*
- *"to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public".*

When these purposes are in conflict the 'Sandford principle' confirms that greater weight should be given to the conservation of the landscape (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: 'National Parks' DoE, 11 September 1996.

4.3 Section 62(2) of the Environment Act places a requirement for all 'relevant authorities, statutory undertakers and other public bodies' to have regard to the purposes of National Parks in exercising or performing any functions in relation to or so as to affect land in a National Park. The importance of National Park purposes in decision making is therefore given legal support in addition to government policy in the determination of this appeal.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

- 4.4 At the time of the decision, the Development Plan for the area formally consisted of:
- **The North York Moors Local Development Framework Core Strategy and Development Policies.** Adopted by the NPA on 13 November 2008.
 - **Whitby Business Park Area Action Plan** Adopted November 2014.
- 4.5 **The National Planning Policy Framework** – Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up to date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The Core Strategy and Development Policies document was adopted on 11th November 2008 under the provisions of the 2004 Act and is therefore up to date and should be the starting point for any decision making in the North York Moors National Park.
- 4.6 The Government’s commitment to the protection of National Parks is clearly set out in the NPPF. Paragraph 115 says that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. This commitment has been publicly confirmed by the Prime Minister during the consultation on the draft NPPF and in subsequent announcements by the Planning Minister in relation to permitted development rights changes. Furthermore, the NPPF, in Footnote 9, also confirms that the Framework specifically indicates that development, including the “presumption in favour of sustainable development” should be restricted within a National Park. It is clear that the NPPF expects a different approach to be taken in National Parks to both plan making and decision taking compared with other areas outside of designated National Parks.
- 4.7 The National Planning Policy Framework sets out that economic growth should be supported in rural areas to promote a strong rural economy, rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

This however needs to be balanced against the specific policy protection afforded to National Parks in paragraph 115 and footnote 9 as set out in paragraph 4.5 above. The support for economic development in National Parks must therefore be delivered within the concept of sustainable development as set out in the English National Parks and Broads Circular 2010 which at paragraph 29 states:

“ Within the Parks, conserving and enhancing the landscape biodiversity, cultural heritage, dark skies and natural resources, and promoting public understanding and enjoyment of these should lie at the very heart of developing a strong economy and sustaining thriving local communities.”

4.8 It is considered that whilst the proposal might be of financial benefit to the applicant and provide a facility for private pilots across the country, there is no pressing public need for the facility other than personal desire and this is insufficient justification to set aside the objectives of National Park Policy. It is not considered that this proposed development would benefit the wider rural economy or the local community. The English National Parks and Broads Circular 2010 is clear (page five) that Government expects all relevant bodies with an influence on the management of National Parks to work towards the achievement of the vision set out in that document, which includes the vision for everyone to value National Parks as a place of escape and reflection. We would therefore contend that allowing this development and would not respect the peaceful and tranquil character of this part of the National Park and thus conflicts with the vision set out in this circular and the National Planning Policy Framework.

4.9 **Local Development Framework:** The relevant policies are:

- Core Policy A “Delivering National Park Purposes and Sustainable Development”
- Core Policy H “Rural Economy”
- Core Policy C “Natural Environment, Biodiversity and Geodiversity”
- Development Policy 14 “Tourism and Recreation”
- Development Policy 13 “Rural Diversification”
- Development Policy 23 “New Development and Transport”

Core Policy A of the NYM Local Development Framework seeks to ensure that new development conserves and enhances the Park’s special qualities; with priority being given to ensuring development does not detract from the quality of life of local residents and supports the character of a settlement.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

Core Policy H of the NYM Local Development Framework seeks to strengthen and support the rural economy by providing local communities with a range of opportunities for entrepreneurship, education and training in various ways, including allowing new employment development in Whitby Business Park, Service Villages and Local Service Villages.

Development Policy 13 of the Core Strategy and Development Policies seeks to support proposals for the diversification of existing agricultural businesses where the scheme will make use of existing buildings and the proposed scheme is compatible with the existing farm activity and is of a scale and nature which will not harm the character and appearance of the locality, and where the existing access arrangements are appropriate for the proposed use.

Development Policy 14 of the NYM Local Development Framework seeks to ensure that new tourism development and the expansion or diversification of existing tourism businesses will be supported where the proposal will provide opportunities for visitors to increase their understanding, awareness and enjoyment of the special qualities of the National Park; where the development can be satisfactorily accessed from the road network (by classified roads) or by other sustainable modes of transport including public transport, walking, cycling or horse riding; where the development will not generate an increased level of activity and where it will make use of existing buildings.

Development Policy 23 of the NYM Local Development Framework seeks to ensure that existing Public Rights of Way, linear routes and other access routes for pedestrians, cyclists and horse riders are protected.

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

5.0 Local Planning Authority's Case

5.1 The key issues for consideration are whether or not the proposal would have significant detrimental visual and sensory impact on the peace and tranquillity of the locality to the detriment of the amenities of local residents, the enjoyment of the area by visitors and the character of the area, which would conflict significantly with National Park purposes. It is also important to consider whether any harm likely to be caused by the development would outweigh any benefits to the economic viability of the applicant's business or the desire of pilots across the country to fly to South Moor Farm.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 5.2 **Tranquillity** – The importance of tranquillity is explained in two separate documents produced by the Campaign to Protect Rural England (CPRE) in 2006 and 2015. These documents have already been sent to the Planning Inspectorate with the Appeal Questionnaire and the Inspector is respectfully requested to read both documents in their entirety.
- 5.3 The importance of tranquillity was eloquently expressed by a member of the public who spoke at the Planning Committee Meeting on 19 February 2015 in relation to the second planning application for an airfield. It is important that these comments are re-iterated because the importance and need for tranquil places must not be underestimated. The comments made were that “National Parks such as the North York Moors and beautiful quiet spaces such as Dalby Forest are now, and will become increasingly important for the physical and mental health of those who visit, to find tranquillity, a place where they can play, paddle, walk, run, cycle, ride and climb safely in beautiful quiet surroundings, to discover the wildlife and flora, to spend time away from all the ever-present noise and overcrowding of urban living and increasingly elusive work/school life balance”. This view is embodied in the two CPRE documents referred to in Paragraph 5.2 and represents a strongly held view of the importance of the quality of the environment of the locality to the wider nation by those who live and work there.
- 5.4 The national mapping of tranquillity undertaken in 2006 shows the North York Moors National Park as being an important and extensive tranquil area. The mapping undertaken by the Campaign to Protect Rural England shows that almost 90% of the National Park can be classed as relatively tranquil to a greater or lesser degree. Consequently, tranquillity is one of the Park’s most appreciated special qualities and in resident and visitor surveys it is repeatedly identified as something that people value and concern is expressed over its erosion and loss.
- 5.5 Most importantly, tranquillity cannot be assessed simply by measuring predicted noise decibels of a proposed activity. Tranquillity is about visual disturbance as well as aural disturbance and can be harmed by man-made structures such as electricity pylons which disrupt the sky scape, and consequently also by the movement and close presence of light aircraft. The sense of remoteness engendered by the extensive, open, undeveloped spaces is a valued quality, contributing to people’s enjoyment of ‘getting away from it all’.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

These qualities have led people to come to the North York Moors National Park seeking spiritual refreshment for many centuries and the North York Moors National Park Management Plan 2012 sets out its aim to protect and increase tranquillity (relevant extracts have been supplied for the Inspector with the questionnaire).

- 5.6 Most of the National Park is generally considered to be semi-natural, remote, wild and free from obvious modern day human impact. Other elements of the National Park that contribute towards its sense of tranquillity include running water, and particularly in the south of the National Park (including Dalby Forest), the presence of native trees and woodland and dark night skies (with the ability to see stars clearly at night).
- 5.7 The aims and policies set out within the management plan seek to protect, expand and improve existing tranquil areas and dark skies and resist new development in the National Park which will cause unacceptable light or noise pollution.
- 5.8 It is considered that the noise and activity in the air of light aircraft generated from the proposed development would have a detrimental impact on the tranquillity of this part of the National Park. Furthermore, whilst the appellant states that no taking off or landing would take place after dark, this would be difficult to enforce and any such activity would result in localised but significant levels of light pollution in an existing very dark area which would have a detrimental impact on the Dalby Forest Dark Skies status.
- 5.9 In view of the harmful impact on tranquillity that is inevitable due to the nature of the activity, this proposal would be detrimental to the enjoyment of local residents and visitors alike and contrary to Core Policy A of the NYM Local Development Framework and the objectives of the management plan. Two of the special qualities listed at 3.13 of the Core Strategy include tranquillity and a sense of remoteness. These special qualities are also included in the Management Plan; The National Planning Practice Guidance (NPPG) which came into force on 6 March 2014 confirms that National Park Management Plans can be material considerations in making decisions on individual planning applications, where they raise relevant issues. The NPPG also emphasises the importance of tranquillity in protected areas:

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

“for an area to be protected for its tranquillity it is likely to be relatively undisturbed by noise from human caused sources that undermine the intrinsic character of the area. Such areas are likely to be already valued for their tranquillity including the ability to perceive and enjoy the natural soundscape and are quite likely to be seen as special for other reasons including their landscape.”

- 5.10 **Visual Clutter** - Whilst it is accepted that the omission of the proposed hangar building removes one of the previous reasons for refusal, the consequence of this is that aircraft would have to be parked and stored in the open. It is considered that the cumulative effect of two aircraft runways with stationary aircraft parked in the open and the associated aircraft activity, and noise, would result in a visually intrusive development, of clearly non- agricultural nature, which would be to the detriment of the tranquil character of the area. The constant presence of aircraft in the open landscape will also add to the erosion of the tranquillity of the area and the public enjoyment of a part of the National Park which currently has a sense of deep rurality, peace and remoteness.
- 5.11 **Tourism** - As set out in Sections 1.3 to 1.7 above, Dalby Forest is a regional visitor attraction, as well as being a place where people live. The forest is promoted as being a place for non-motorised recreational activity which furthers the understanding of the Park's special qualities and it is well visited by both the local population and tourists from further afield. The CPRE document “Give Peace a Chance” clearly states that the presence of people does not necessarily harm tranquil places.
- 5.12 It is considered that the proposed airfield with associated take-offs, landings and in-air activity would be very likely to generate a level of noise and activity that would detract from the experience of other visitors as well as local residents. Furthermore, the cumulative impact of the visible presence of standing aircraft, combined with subsequent aircraft movements and the associated aircraft activity and noise on this exposed agricultural holding would change the character of the site to an airfield rather than an upland farm holding, to the detriment of the tranquillity of the area and the enjoyment by both visitors and local residents alike. The level of activity generated by aircraft taking off, landing and flying overhead would be extremely difficult to control by means of conditions if this appeal were allowed.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

- 5.13 Furthermore, it is not considered that the contribution that the additional visitors arriving by plane to South Moor Farm might make to the local economy would outweigh the likely harm caused to amenity which could as a consequence; result in the reduction of other visitors to the forest.
- 5.14 In these respects it is considered that the proposal is contrary to Core Policies A and H and Development Policy 14 of the NYM Local Development Framework (which also resists the requirement for new building).
- 5.15 **Public Rights of Way** - The farmland in this locality is a particularly quiet area of the National Park in terms of recreational access despite being within and adjacent to Dalby Forest. However, there is a public bridleway abutting the proposed runways and a public footpath and a Highway Ratione Tenurae (repairs by tenants of the lands) which both cross the western runway.
- 5.16 The footpaths are used by the Tabular Hills walk, the Pickering to Langdale End part of the Moor to Sea cycle route and nearby is the Allerston BOAT (Byway open to all traffic) 500208. Details of all these routes are attached at Appendix A
- 5.17 It is considered that if the proposed development were to be allowed, there would be an adverse effect on the enjoyment of users of these Public Rights of Way, both in terms of noise, disturbance and public safety. Furthermore, it is considered that the dangers, be they either real or perceived, for horesriders, cyclists and walkers, of aircraft taking off and landing, either in such close proximity to these routes would significantly detract from their enjoyment of the area. This would be contrary to Development Policy 23 of the Local Development Framework.
- 5.18 **Impact on Neighbouring Properties** - The development site is not bounded by immediate residential neighbours, however, there are numerous residential properties in the locality that would suffer from loss of amenity, peace and tranquillity as a result of noise disturbance that will result from aircraft landings and take offs numerous times a day and incoming and outgoing flights overhead. The proposal would therefore be contrary to Core Policy A and Development Policy 3 of the NYM Local Development Framework.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 5.19 **Archaeology** - There are a number of archaeological concerns in relation to the appeal proposal. The site lies within an area rich in prehistoric archaeology, surrounded by Early Bronze Age burial mounds (although many of these have been reduced or levelled by past cultivation) and with a complex of prehistoric boundaries (which appear to predate the burial mounds) within 100 metres of the proposed runways. Two of the latter boundaries can be seen running towards the intersection of the runways before they are lost to sight. A copy of an annotated aerial photograph indicating these is attached at Appendix B.
- 5.20 The appeal proposal does include a Heritage Statement which to some extent overcomes previous concerns. However, due to the site being located in this area of intense archaeological activity, the activity generated by flight movements and the impact of stationary aircraft is likely to have a negative impact on the public experience and enjoyment of, and thus the setting and significance of these designated heritage assets. Whilst the level of harm is considered to be "less than substantial", under policy 134 of the NPPF such harm must be weighed against the public benefits of the proposal. In the case of this proposal the level of public benefits are insufficient to outweigh the resultant harm to these designated heritage assets of the highest importance.
- 5.21 **Wildlife** - Light aircraft are known to cause disturbance to birds and this is believed to be due to visual disturbance and noise both from the aircraft themselves and possibly personnel movements. Dalby Forest is an important area for several bird species of conservation importance that are legally protected from or potentially sensitive to disturbance, such as Goshawk and Nightjar. Goshawks, which are legally protected, are particularly sensitive to noise disturbance, especially erratic noise which would result from overhead and sudden aircraft movements from an airfield in the locality.
- 5.22 Having consulted with the Authority's Ecologist, it is considered that the report by Acorus submitted with the Planning Application, may be mistaken in saying that there are no ecology issues from the proposed development. Whilst there are no SPAs or SSSIs within 2km of the site, both Goshawks and Nightjar are known to be breeding in the adjacent forest and either could be within that distance of the application boundary. Goshawk is specially protected under Schedule 1 of the Wildlife and Countryside Act and to avoid the risk of illegal persecution, Goshawk nest sites are kept confidential.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

Nightjars are known to breed in forest clear-fell sites and young plantations, to the extent that this area may qualify as a Special Protection Area for this species. Both could be very vulnerable to disturbance if nesting close by if aircraft subsequently fly close to their nests, such as when taking off or landing.

- 5.23 With respect, it is not considered that the previous Inspectors have thoroughly taken into account the ecological implications of this proposal and in the absence of certainty in relation to the specific location of the protected species, a precautionary approach should be adopted to avoid the risk of contravening wildlife legislation designed to protect important species and their habitats.

6.0 Relevant Appeal Decisions

- 6.1 Appendices C & D contain documentation relating to a similar airfield proposal within Exmoor National Park. The appeals date from 1990 and 1998, but the passage of time is not considered to make them any less relevant to this current appeal proposal because the National Park Designation and National Park Purposes have not altered. Indeed the awareness and importance of protecting tranquillity has increased since this time and is specifically referenced in government policy and guidance, e.g. the 2010 National Parks and The Broads Circular and NPPG.
- 6.2 With regards to the Exmoor appeals, the Inspectors' considered that the main issue was the effect of the proposal on the quality and tranquillity of the National Park Landscape. They acknowledged the importance of National Parks and their protected status, by referring to the fact that National Parks were established with the twin purposes of protecting the landscape and enhancing their natural beauty and of promoting their enjoyment to the public. Reference was also made to National Policy which sought (and still does) to ensure that proposals for new development in these areas are subject to special scrutiny to ensure they fit properly into their surroundings, with the strict control of recreation and leisure facilities to ensure they do not detract from the landscape and the natural environment.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 6.3 Both appeal decisions concluded that that there would inevitably be additional activity in the form of vehicles coming and going as well as the taking off and landing of air craft which would give rise to disturbance in the locality. The noise and movement of such light aircraft could not fail to be visible and audible over a wide area which would disturb and seriously detract from the tranquil atmosphere that would normally characterise the locality and would be inconsistent with the purposes of the National Park. Furthermore, those proposals were for private use of the airfield, not for any commercial use.

7.0 Weight to be Given to Previous Appeal Decisions at South Moor Farm

- 7.1 Core Policy A seeks to further the National Park purposes and duty by encouraging a more sustainable future for the Park and its communities whilst conserving and enhancing the Park's special qualities.
- 7.2 The special qualities of the North York Moors are set out in the Management Plan and include a strong feeling of remoteness and tranquillity. Whilst the views of both previous Planning Inspectors in relation to the appeals at South Moor Farm was that the impact of the proposed building would be greater than the impact of aircraft noise, the Local Planning Authority does not consider this to be so.
- 7.3 It is contended that the proposed use of the existing agricultural grazing land for the take-off and landing of light aircraft would introduce a level of aircraft noise and visual activity, albeit on a limited basis, to a particularly tranquil area of the National Park. This would undermine the special qualities of the National Park and would therefore be contrary to Core Policy A and Policy E19 of the National Park Management Plan.
- 7.4 Furthermore, Development Policy 14 is supportive of new tourism development and the expansion or diversification of existing tourism businesses where the proposal provides opportunities for visitors to increase the awareness, understanding and enjoyment of the special qualities of the National Park in a manner that will not undermine those special qualities or in a way that conserves and enhances the special qualities and will not generate increased activity including noise, which would be likely to detract from the experience of visitors and the quality of life of local residents. The proposal is also considered to be contrary to Development Policy 14 in that it does not provide a type of recreational activity that would further the understanding of the special qualities of the National Park.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 7.5 With respect, it is also considered that the second Inspector did not fully take into account similar appeal proposals within Exmoor National Park, dating from 1990 and 1998.
- 7.6 The key issue in this appeal and the continuing approach of the Planning Committee of the Authority in resisting this development is the incompatible nature of the aircraft flying activity on the special qualities of the National Park, which are very apparent in this location and the important planning issue of tranquillity, which, with respect, both previous Planning Inspectors appear to have failed to understand or properly address as an important planning consideration.
- 7.7 The first appeal decision considered the aspect of tranquillity only in relation to perceived noise rather than the wider concept of tranquillity in its context as a special quality of a national park which includes activities, structures, noise and a perception of remoteness, lack of obviously man-made infrastructure and wildness. The second appeal decision did not even refer to "tranquillity" and in looking at the previous reasons for refusal relating to this issue the inspector did not explain at all his conclusion that he found no change in planning circumstances. There may well be no change in planning circumstances, but in not properly addressing the planning grounds of tranquillity as a special quality in the first instance, the reasoning here is not clear.
- 7.8 Furthermore, the Authority submitted further additional evidence in the second appeal to justify why the proposal would result in demonstrable harm to the tranquillity of the area – which is a planning matter intrinsically bound up in National Park purposes and therefore in statute.
- 7.9 The key areas of concern the Authority has in relation to a lack of regard to legislation are therefore:
- 1) Incorrect application of Section 38(6) of the 2004 Planning Act: Paragraph 5 of the Inspector's letter states that, *"in my view the starting point in the determination of the current appeal is a previous Inspector's decision in respect to another appeal against the refusal of planning permission at the current appeal site."* Clearly, this is not a correct position to take in making a decision under the planning acts, as the above legislation requires the starting point to be the development plan. The previous inspector's decision is clearly an important material consideration but should not logically or procedurally form the "starting point" of a determination process.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

2) Lack of Regard to Section 62 of the 1995 Environment Act: As you will be aware this legislation includes a duty of certain bodies to have regard to the purposes for which National Parks are designated in exercising or performing their functions which affect land in a National Park. The definition of "relevant authority" would include the Planning Inspectorate. The act requires such a relevant authority to have regard to the purposes and where there is a conflict, should attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park. The planning inspector's decision letter includes no reference to this duty and in the lack of consideration of the effect of the development on National Park purposes and the special quality of tranquillity which is incorporated into the second statutory purpose does not demonstrate that regard has been had to this important legal duty.

3) In not explicitly taking account of paragraph 115 of the NPPF, the decision making process regarding the reasons for refusal in terms of the incompatible nature of the proposal has appeared to ignore clear government policy which states that planning decisions should give great weight to National Park purposes which have the highest status of protection in relation to landscape and scenic beauty. The planning balance therefore that needs to be taken between the statutory purposes of the National Park, NPPF policy on National Parks and the development plan as opposed to any economic benefits of the proposal has not been clearly stated.

7.10 This Authority therefore believes that the inspector's decision making process was lacking in clarity and did not evidence the legal requirements of planning decision making within National Parks. It is considered that the evidence in front of him relating to the harmful impact on tranquillity as a special quality provides sufficient justification for the "Authority's persistence with either its first or third refusal reasons".

8.0 Comments on Appellants Claim for Costs

8.1 The current Appeal proposal was considered by the National Park Authority Planning Committee which considered the wider impact of the proposal on the tranquillity of this part of the National Park. Furthermore, both Officers and Members were of the view that the issue of tranquillity warranted further exploration and consideration, and that this could not be assessed solely on the basis of decibel readings.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 8.2 Furthermore, in terms of the previous award of costs against the Authority in relation to the last appeal, the Authority believes that there were a number of contentious points in the Inspector's reasoning in the determination of the appeal which led to the finding that the Authority had acted in an unreasonable manner. The conclusion that the Authority acted unreasonably was not sufficiently explained or justified and in view of the lack of clarity relating to policy and important legislation, the Authority believes that the costs decision was not sufficiently justified.
- 8.3 There was a strong resolution from Members of the Authority that the resultant impact on the tranquillity of the National Park would be harmful, and therefore it is considered reasonable for the Authority to have refused the application for the reasons set out in 3.8 above.

9.0 Conclusion

- 9.1 The LPA considers that the proposal would have a significant detrimental impact on the peace and tranquillity of the locality to the detriment of the amenities of local residents; the enjoyment of the area by visitors and the character of the area and thus conflict significantly with National Park purposes. The harm likely to be caused by the development is considered to outweigh any benefits to the economic viability of the applicants business or the desire of pilots across the country to fly to South Moor Farm. No satisfactory justification has been put forward regarding any practical need for the facility other than the appellant's personal convenience and financial benefit and this is not considered to be justification for accepting the harm that allowing this appeal would have on the objectives of the designation of the National Park. Consequently the LPA does not consider that the proposal satisfies the requirements of the development plan or the government's policy or guidance in relation to National Parks in both the NPPF, NPPG and the 2010 National Parks and Broads Circular and considers that planning permission should not be given.
- 9.2 The proposal would conflict directly with National Park purposes and designation, and is not considered to comply with Core Policies A, C and H and Development Policies, 13, 14 and 23 of the NYM Local Development Framework or the aims and objectives of the North York Moors National Park Management Plan. The conservation and enhancement of the natural beauty (of which tranquillity forms a fundamental part) must take precedence.

Planning Inspectorate Reference:

APP/W9500/W/16/3144478

Local Planning Authority Reference:

NYM/2015/0781/FL

- 9.3 As stated in 4.2 above, policies and decisions that could have an impact upon National Parks have to take the two National Park purposes into consideration. If there is conflict between the two purposes, the first must take precedence. It is considered that, due to the likely adverse impact upon the peace and tranquility of this part of the National Park which is popular with visitors seeking to enjoy the special qualities of the National Park, the proposal is in conflict with both the first and second statutory National Park purposes.
- 9.4 Therefore the LPA respectfully requests that the Inspector dismisses the appeal. However, should the Inspector be mindful to allow the appeal, a list of conditions which the LPA would wish to see imposed are attached at Appendix E.

Planning Inspectorate Reference:
Local Planning Authority Reference:





APP/W9500/W/16/3144478
NYM/2015/0781/FL

APPENDIX A

North York Moors National Park
The Old Vicarage, Helmsley

Definitive Map of Public Rights of Way
Working Copy with other highways added

Key

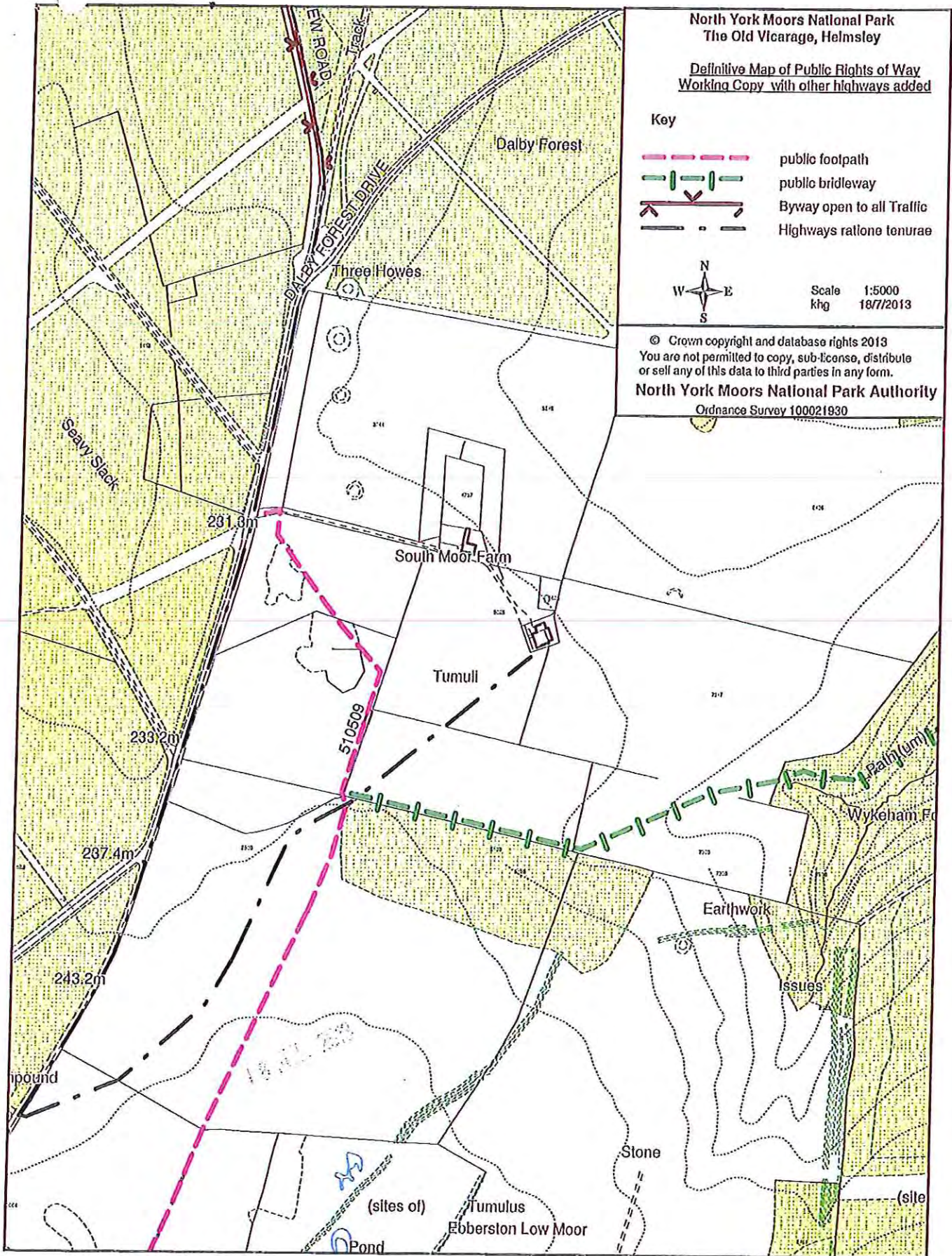
-  public footpath
-  public bridleway
-  Byway open to all Traffic
-  Highways raltone tenurae



Scale 1:5000
khg 18/7/2013

© Crown copyright and database rights 2013
You are not permitted to copy, sub-licence, distribute
or sell any of this data to third parties in any form.

North York Moors National Park Authority
Ordnance Survey 100021930



The North York Moors National Park is one of the most beautiful parts of England and Wales. As the largest expanse of open heather moorland in the country, it is a treasured landscape which deserves all the care the nation can give it.

£3.95

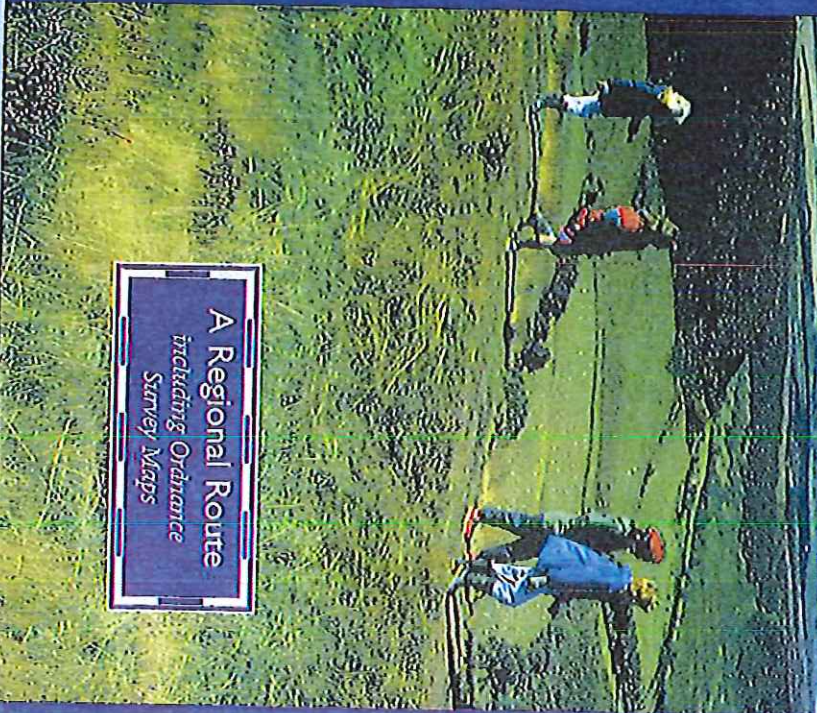


North York Moors National Park Authority
Information Service
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

www.visitthemoors.co.uk

014006

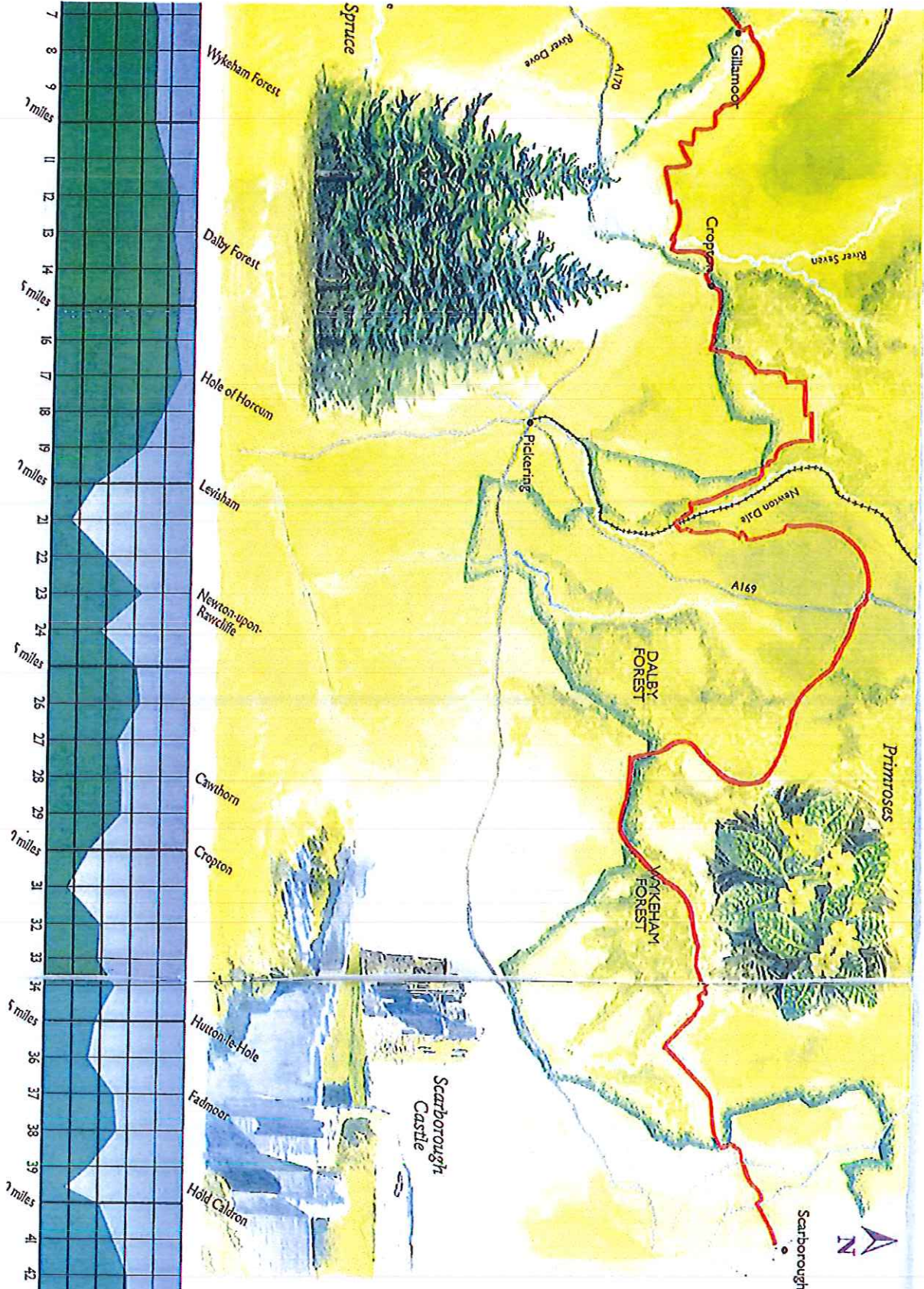
North York Moors National Park








A Regional Route
including Ordnance
Survey Maps



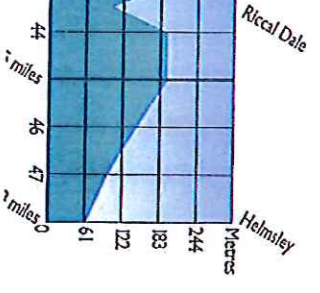
The Tabular Hills Walk

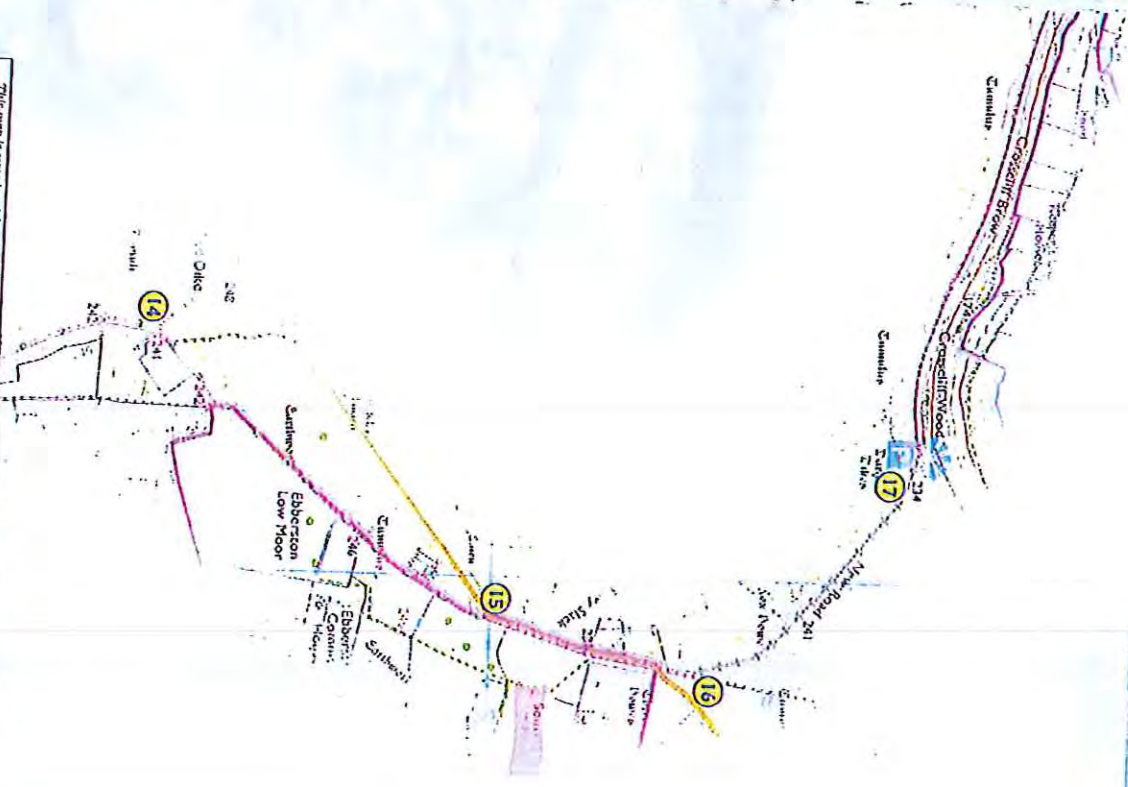


KEY TO THE MAP

-  The Tabular Hills Walk
-  River
-  Railway
-  A Road
-  National Park Boundary

YOUR ROUTE





This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. North York Moors National Park Authority, 1000223502/2004

Dalby forest

Over 600 years ago the area between Pickering and Scarborough was the Royal Forest of Pickering, a hunting playground for kings from Henry I to Henry VII. Red, roe and fallow deer and even wild boar once roamed here but now you are likely to see only the occasional roe deer. Dalby, 'The Great Yorkshire Forest', is part of the North Riding Forest Park and is managed by the Forestry Commission. Along the edges of the conifer plantations you can see an interesting variety of wildflowers such as tufted vetch, bird's-foot trefoil and common centaury. The stretch of tarmac road is part of the Dalby Forest Drive, a nine mile scenic route through the forest. On the right as you leave the tarmac road is a large grassy mound, one of three ancient burial mounds or howes in the field.

Where the road divides bear right (14) and follow the road to join the tarmac Dalby Forest Drive (15). Continue ahead and where the Forest Drive swings right, (16) continue ahead along the limestone road towards Crosscliff Viewpoint. Approaching the viewpoint follow the Disabled Parking Only route (17). Follow the path along Crosscliff Brow.



Deer

Past

the remains of a forgotten Pickering in Yorkshire. Long before the town was farmland where rabbits were hunted, Pickering was home to massive 1,000 acre warrens. 100 rabbits every year!



men and ladies would
hunters in Malton,

Did You Know?

Pickering has more royal connections than any other town in Yorkshire except York...



The Moor to Sea Cycle Network was created by a partnership between the North York Moors National Park Authority, North Yorkshire County Council, Scarborough Borough Council, Ryedale District Council, the Forestry Commission and PACE cycles.



North York Moors National Park Authority
The Old Vicarage, Bondgate, Helmsley, York YO62 5BP
Tel: 01439 770657 www.visitthemoors.co.uk

www.moortoseacycle.net

© North York Moors National Park Authority, 2007

This publication was produced by the North York Moors National Park Authority in partnership with North Yorkshire County Council, Scarborough Borough Council,

Pickering to Langdale End

Distance: 14.9 miles, 24 km

Time: 2 - 3 1/2 hours

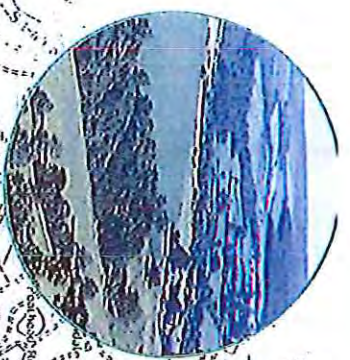
Terrain: On roads and forest tracks with some steep ascents and descents

Refreshments: Pickering, Low Dalby



Pickering to Langdale End

Explore the beautiful Dalby Forest on this shady path following the popular Forest Drive. You may catch a glimpse of one of the forest's more elusive residents and, if you have enough energy, you can explore one of the 8,500 hectare rest on a network of cycle trails.



Royal Recreation

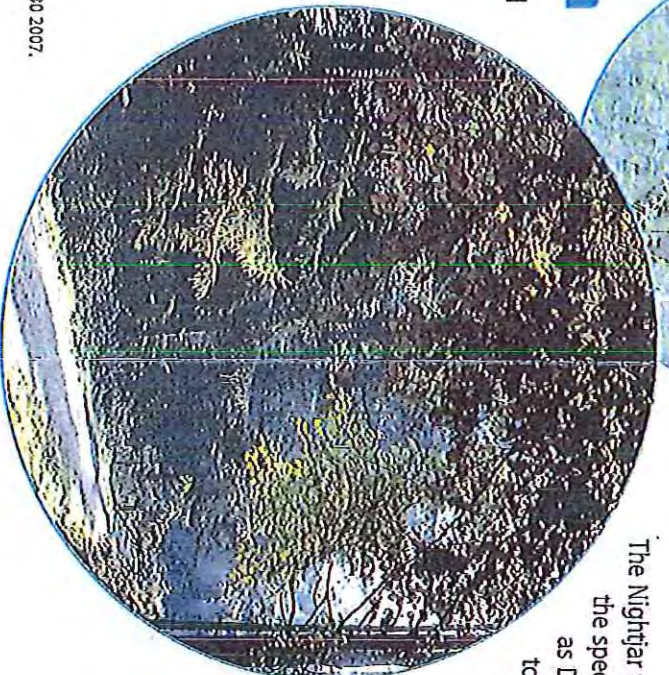
Dalby Forest is popular with walkers and cyclists today but, in medieval times, it would have been the local gentry who spent their leisure time here. The Royal Forest of Pickering stretched from Helmsley to Scarborough and was an enormous playground for England's kings, whose pastimes included hunting red and roe deer. If you are lucky, you might still catch a fleeting glimpse of a deer as it disappears into the trees...



Nocturnal Noise

Visit the forest around dusk and you may 'churring' song of another of the forest's Nightjar – a summer visitor to Dalby. Although they are unlikely to actually see one travelled birds – they blend into the forest plumage that resembles dead leaves and

The Nightjar was once in major the special management as Dalby means its in to climb. Nightjars clearings in modern areas of heath have not yet st



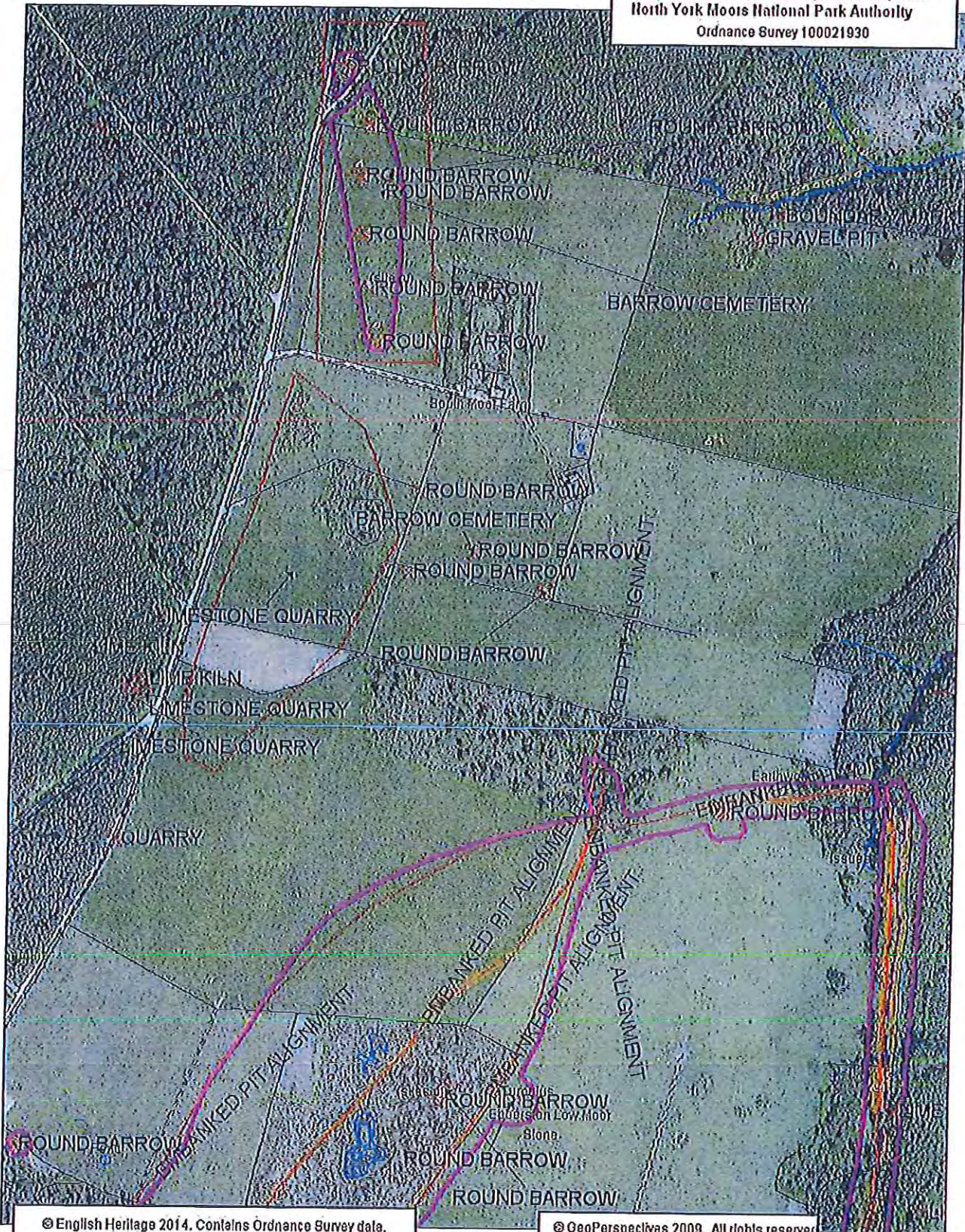
© Crown Copyright. All rights reserved. North York Moors National Park Authority. Licence No. 100021930 2007.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

APPENDIX B

© Crown copyright and database rights 2014
 You are not permitted to copy, sub-license, distribute
 or sell any of this data to third parties in any form.
 North York Moors National Park Authority
 Ordnance Survey 100021930



© English Heritage 2014. Contains Ordnance Survey data.
 © Crown copyright and database right 2014.
 The English Heritage GIS contained in this material
 was obtained on 16/12/2013.
 The most publicly available up to date English Heritage
 GIS Data can be obtained from <http://www.english-heritage.org.uk>

© GeoPerspectivas 2009. All rights reserved.
 Unauthorised reproduction may lead to
 criminal prosecution or civil claims for damages.
 For information purposes only
 No part of this data may be reproduced

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

APPENDIX C



Planning Inspectorate
Department of the Environment

Room 1400 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 440904

Direct Line
Switchboard
GTN 2074

Appendix C P. 1.
6/35/89/101

Frere Cholmeley
28 Lincoln's Inn Fields
London
WC2A 3HH

Your reference
PM/IFC

Our reference

T/APP/G3300/A/89/140321/P7

Date 24 MAY 1990

SOMERSET COUNTY COUNCIL
RECEIVED
25 MAY 1990
COUNTY SECRETARY
SCHEDULE 9 SOLICITOR

Gentlemen,

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 32 & 36 AND SCHEDULE 9
APPEAL BY MR M WEATHERLAKE
APPLICATION NO:6/35/89/101

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeal against the decision of the Exmoor National Park Committee of the Somerset County Council to refuse planning permission for the use of land at Treborough Common as a landing strip and erecting a windsock. I have considered the written representations made by you and by the National Park Committee and also those made by the West Somerset District Council. I have also considered those representations made by an interested person directly to the council which have been forwarded to me. I inspected the site on 27 March 1990.
2. Since the operations necessary to form the landing strip have already been carried out and the windsock erected, I propose to deal with the appeal under Section 32(1)(a) as being for the retention of a landing strip and windsock, and for the use of the land as a landing strip.
3. The appeal site is in a fairly remote part of the Exmoor National Park a short distance north of the B3224 between Wheddon Cross and Elworthy. The landing strip runs east-west. It is some 650m long and has a surface of crushed weathered shaley stone. The windsock has been erected on the south side of the landing strip. The site is on elevated land which falls away beyond the site to the north and east. At around 400m above sea level it is higher than much of the surrounding land, and there is a triangulation pillar nearby.
4. The National Parks were established with the twin purposes of protecting and enhancing their natural beauty and of promoting their enjoyment by the public. In consequence, as PPO7 states, proposals for new development in these areas will be subject to special scrutiny to ensure they fit properly into their surroundings. These principles are carried through into Somerset Structure Plan Policies C1 and C3 which stress the safeguarding of the exceptional landscape and wildlife quality of the National Park by the strict control of development, and the control of recreation and leisure facilities to ensure they do not detract from the landscape and the natural environment.
5. With this background and from what I have seen and read, I consider that the main issue in this case concerns the acceptability of the appeal development, in the light of the stringent controls that apply in the Park, in its effect on the quality and tranquillity of the National Park landscape
6. By virtue of its elevated position and the lack of many publicly accessible viewpoints, the landing strip is unlikely to be readily visible to a large number of observers at ground level, although it would be obvious to anyone using the nearby public footpath. The windsock is visible from the B3224 and the footpath and also, just, from the Luxborough to Withycombe road to the north. I observed that the



quite large scale operations involved in forming the strip have resulted in the original grassed surface being removed and replaced with the stoned surface it now has. In my view this has caused a large scar which, irrespective of its public visibility, does represent a significant and adverse change in the nature of the local landscape. As a consequence I do not see that the development can be regarded as preserving or enhancing the natural beauty of the area.

7. Of equal importance in my view is the effect of the activity associated with the use of this land as a landing strip. The noise and movement of light aircraft and the vehicles attending them at the strip cannot fail to be visible and audible over a wide area. This activity would disturb and seriously detract from the tranquil atmosphere that would normally characterise the locality, and would in my view be inconsistent with the purposes of the National Park.

8. I recognise your client requires the strip for his personal use to enable him to manage his nearby farm more efficiently. I note also that he does not expect to use it very often, but while the degree of use envisaged at present is comparatively light, I think that once the use were permitted it would be difficult to curb any subsequent intensification. There is no pressing need for the facility other than your client's personal convenience, and I do not consider this is justification for accepting the harm that allowing this appeal would do to the objectives of National Park policy.

9. I have taken account of all other matters raised, including the lack of objection from those living in the area, but they are not of sufficient weight to affect the balance of my conclusions.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss your client's appeal.

I am Sir
Your obedient Servant

P R BURDEN BSc CEng MICE
Inspector



Planning Inspectorate
Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ
Telox 449321

Direct Line
Switchboard
GYN 1374

Appendix C.P. 3
6/35/89/101

Frere Chomeley, Solicitors
28 Lincoln's Inn Fields
LONDON WC2A 3HH

Your Reference:
PM/IFC 7327.1
Our Reference:
T/APP/C/90/G3300/000001/P6
Council Reference;
6/35/89/101

Date:

-2 AUG 90

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY MR M O J WEATHERLAKE
LAND AT TREBOROUGH COMMON IN THE PARISH OF TREBOROUGH BEING OS PLOT NOS
0635(P.T) AND 7127(P.T)

1. As you know I have been appointed by the Secretary of State for the Environment to determine your client's appeal against an enforcement notice issued by the Somerset County Council. I have considered the written representations made by yourselves, the council and West Somerset District Council. I inspected the site on 9 July 1990.
2.
 - a) The date of the notice is 11 January 1990.
 - b) The breach of planning control alleged in the notice is the formation of a landing strip by levelling the land and the erection of a wind sock without the grant of planning permission required for that development.
 - c) The requirements of the notice are to:
 - i) Discontinue the use of the land for the taking off and landing of aircraft;
 - ii) Dismantle the wind sock and to remove it from the land;
 - iii) Return the land to grassland by the spreading of topsoil to a minimum depth of 100mm and reseeding with grass.
 - d) The period for compliance with the notice is 3 calendar months.
 - e) The appeal was made on the grounds set out in Section 88(2) (a), (g) and (h) of the 1971 Act as amended.



The Appeal Site And Its Setting

3. The air strip is located on high ground within an area of relatively undeveloped open countryside inside the boundaries of the Exmoor National Park. The surrounding area is characterised by rolling hills, green fields, mature hedges and small stretches of woodland; I found it to be very attractive and peaceful.

4. The landing area stands out in the context of its surroundings as it has been levelled and stripped of its green cover and underlying soils; at present it is surfaced with a mixture of what appears to be poor subsoil and rough stone. The wind sock stands prominently to the side of the strip.

The Appeal On Ground (a)

5. From my reading of the evidence and following my site inspection I take the view that the main issue in this case is whether the presence of the landing strip seriously detracts from the character of the surrounding countryside. In considering this issue it seems to me 2 areas need to be addressed; they are the visual impact of the air strip and the implications of its use.

6. Taking the visual impact first, whilst the strip is effectively screened from views to be had from the south it is readily visible from the north. I accept that the number of public vantage points is limited from the north, but even so it seems to me the air strip and its associated wind sock appear as incongruous features in an otherwise essentially agricultural scene, so much so in my opinion that they seriously detract from an otherwise unspoilt, pastoral landscape of national significance as acknowledged by its National Park status. In this context, I cannot accept your submissions that the air strip looks no different to any other rectangular field. In comparison with the general field pattern in the locality the strip appears quite out of place being very long and at the same time very narrow, whereas most fields in the locality are far more square in their proportions.

7. Equally, I am of the view that the taking off and landing of aircraft at the appeal site would introduce noise and activity which is essentially alien to the existing character and purpose of the area. In this regard I have attached significant weight to the fact that the appeal site is located within the Exmoor National Park where one of the prime objectives is to afford to the public, opportunities for open air recreation in a natural countryside environment.

8. I accept that the presence of the landing facility may be of some help to your client in the operation of his farming interests in the locality, but you have provided no substantial evidence to give real force to this line of argument. As such it is not a matter I consider to be of such importance as to outweigh the serious damage that the appeal proposal causes to the character of the surrounding countryside.

9. I have considered whether the objections to the landing strip and wind sock could be overcome by the use of planning conditions, but it seems to me the objections are so fundamental that planning conditions offer no effective remedy in this case. The ground (a) appeal fails accordingly.

The Appeals On Grounds (g) And (h)

10. Under this head you have argued that the wind sock would be required if the strip was to be used on a limited basis as a matter of permitted development. I agree that a wind sock is an important aid to the safe operation of an air strip and that if the appeal site was to be used as an air strip on a temporary basis some form of wind indicator would ideally be required. That is not to accept, however, that a wind sock needs to be permanently erected at the air strip during periods when it is not in use. If it is accepted that the strip could be used as permitted development I see no reason to suppose that a temporary wind sock could not be put in place as and when required. In the circumstances I conclude that the steps required by the notice do not exceed what is necessary to remedy the breach; the ground (g) appeal also fails, therefore.

11. I note that it is intended to reseed the strip but you argue that the 3 months allowed by the notice is likely to be insufficient to establish a sound sward. Given the need to resoil and cultivate the site and to synchronize these activities with the weather and seasons as necessary, I accept that the 3 months allowed in the notice is too short. In line with your own views on this aspect I accept that a period of 12 months is a more realistic period to allow for compliance with this aspect of the notice and I shall vary it accordingly. To this extent your client's appeal under ground (h) succeeds.

12. I have also considered all the other matters raised in the evidence but I find no fact of such weight or any argument so cogent as to lead me to change my conclusions as they relate to this case.

Formal Decision

13. For the above reasons and in exercise of the powers transferred to me, I hereby direct that the notice be varied at Schedule 3 by the deletion of item "(3)" in its entirety and that it be replaced with the words, "Within 12 months to return the land to grassland by the spreading of topsoil to a minimum depth of 100mm and reseeding with grass". Subject thereto I dismiss your client's appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 88(B)3 of the 1971 Act as amended.

Right Of Appeal Against Decision

14. This letter is issued as the determination of the appeal before me. Particulars of the right of appeal to the High Court are enclosed for those concerned.

I am Gentlemen
Your obedient Servant

I S ROXBURGH PhD MPhil BSc DMS
Inspector

Enc.

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

APPENDIX D

6/35/98/106



GOVERNMENT OFFICE
FOR THE SOUTH WEST

Mr M Weatherlake
Higher Court Farm
Treborough
WATCHET
Somerset TA23 0SZ

Decisions Team
4th Floor

The Pithay
Bristol BS1 2PB

Tel:
Fax:

Date: 19 July 1999

Your ref:
Our ref: SW/P/5366/A/220/2

Dear Sir

**TOWN AND PLANNING ACT 1990 – SECTION 77
APPLICATION BY MR M WEATHERLAKE
LAND AT TREBOROUGH COMMON, WATCHET, SOMERSET.**

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Jill Kingaby BSc(Econ) MSc MRTPI, who on 23 March 1999 held a public local inquiry into your application for planning permission for the use of land for one grass runway, for 28 days a year and the part use of an agricultural building as a hangar with a windsock on the building, on land at Treborough Common, Watchet, Somerset. The application was made to the Exmoor National Park Authority and the Secretary of State directed, in pursuance of his powers under section 77 of the Town and Country Planning Act 1990, that it be referred to him for decision instead of being dealt with by the local planning authority.

INSPECTOR'S REPORT AND SUMMARY OF THE DECISION

2. A copy of the Inspector's report is attached. She recommended in paragraph 50 that, in view of the considerations set out in paragraphs 32 to 49 of her report, your application should be refused. For the reasons given below the Secretary of State agrees with the Inspector's conclusions and accepts her recommendation.

POST-INQUIRY REPRESENTATIONS

3. Following the close of the inquiry, letters were received from Mark and Jodie Dascombe, Rupert Dod, and Lady Joyce Waley-Cohen, copies of which are attached to this letter. The Secretary of State has taken full account of all these representations as material considerations in determining your appeal, although he does not consider that they raise any new issues requiring wider circulation to the parties for a further opportunity to comment before being taken into account in reaching his decision.

6/35/98/106



GOVERNMENT OFFICE
FOR THE SOUTH WEST

Mr M Weatherlake
Higher Court Farm
Treborough
WATCHET
Somerset TA23 0SZ

Devons Team
4th Floor

The Pithay
Bristol BS1 2PB

Tel:
Fax:

Your ref:
Our ref: SW/P/5366/A/220/2

Date: 19 July 1999

Dear Sir

**TOWN AND PLANNING ACT 1990 – SECTION 77
APPLICATION BY MR M WEATHERLAKE
LAND AT TREBOROUGH COMMON, WATCHET, SOMERSET.**

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to say that consideration has been given to the report of the Inspector, Jill Kingaby BSc(Econ) MSc MRTPI, who on 23 March 1999 held a public local inquiry into your application for planning permission for the use of land for one grass runway, for 28 days a year and the part use of an agricultural building as a hangar with a windsock on the building, on land at Treborough Common, Watchet, Somerset. The application was made to the Exmoor National Park Authority and the Secretary of State directed, in pursuance of his powers under section 77 of the Town and Country Planning Act 1990, that it be referred to him for decision instead of being dealt with by the local planning authority.

INSPECTOR'S REPORT AND SUMMARY OF THE DECISION

2. A copy of the Inspector's report is attached. She recommended in paragraph 50 that, in view of the considerations set out in paragraphs 32 to 49 of her report, your application should be refused. For the reasons given below the Secretary of State agrees with the Inspector's conclusions and accepts her recommendation.

POST-INQUIRY REPRESENTATIONS

3. Following the close of the inquiry, letters were received from Mark and Jodie Dascombe, Rupert Dod, and Lady Joyce Waley-Cohen, copies of which are attached to this letter. The Secretary of State has taken full account of all these representations as material considerations in determining your appeal, although he does not consider that they raise any new issues requiring wider circulation to the parties for a further opportunity to comment before being taken into account in reaching his decision.



GOVERNMENT OFFICE
FOR THE SOUTH WEST

MATTERS ARISING

4. The Secretary of State notes that in paragraph 4 of her report, the Inspector has considered the application at the inquiry on the basis of the proposal as described in the call-in letter dated 15 December 1998, namely: "the retention of two aircraft landing strips and a taxi strip for use 28 days a year, change of use of an agricultural building to an aircraft hangar to which will be attached a windsock". The Secretary of State has therefore proceeded to determine your application on this basis.

POLICY CONSIDERATIONS

5. Section 54A of the Town & Country Planning Act 1990 (introduced by section 26 of the Planning and Compensation Act 1991) requires the Secretary of State to determine your application in accordance with the development plan unless material considerations indicate otherwise. The plan to which section 54A applies is the approved or adopted development plan for an area and not any draft plan which may exist. In this case, therefore, the statutory development plan applicable to the appeal site comprises the approved Somerset Structure Plan incorporating the First Alteration dated 11 August 1986, and Second Alteration dated 11 August 1992, together with the Exmoor National Park Local Plan (adopted 11 July 1997).

6. The Secretary of State has also taken into account, as material considerations in the determination of your application, the relevant provisions of the Somerset Structure Plan First Review which was placed on deposit on 14 February 1997 and was the subject of an Examination in Public held in January 1998. It is not expected that the proposed modifications to this emerging plan will be published until October 1999. As the emerging policies are still subject to further possible amendment they cannot be afforded the full weight of an adopted plan in the determination of this application.

7. The Secretary of State notes that the application site is situated within the designated Exmoor National Park area and has therefore had full regard to the requirements and provisions referred to in paragraph 10 of the Inspector's report. Furthermore, the Secretary of State has also taken full account of the relevant guidance in Planning Policy Guidance Note (PPG) 1 "General Policy and Principles", PPG7 "the Countryside - Environmental Quality and Economic and Social Development", and PPG13 "Transport".

MAIN ISSUES & CONSIDERATIONS

8. Having regard to the matters set out in the call-in letter dated 15 December 1998, the Secretary of State considers the main issue to be considered in the determination of your application to be that identified in paragraph 32 of the Inspector's report, namely the effect of retaining the current use of this site with its



GOVERNMENT OFFICE
FOR THE SOUTH WEST

aircraft runways, taxi strip, hangar and windsock, on the character and appearance of the Exmoor National Park.

9. The Secretary of State has carefully assessed all the available evidence and wholly accepts the Inspector's conclusions. He considers that the retention of this use would have a materially harmful effect on the character and appearance of the National Park and its quiet enjoyment by visitors. It would thereby conflict with the objectives of the statutory development plan policies and national policy guidance, in relation to the control of development in the open countryside, and the purposes of designation and protection of the Exmoor National Park. The Secretary of State has had due regard to the considerations put forward in support of your application, but is aware of no overriding need for this facility or wider community benefits likely to ensue from its retention. He therefore concludes overall that factors of personal convenience and enjoyment are not sufficient to set aside the objectives of National Park policy and to justify a decision otherwise than in accordance with the development plan.

FORMAL DECISION

10. Accordingly, for the reasons given above and by the Inspector, the Secretary of State hereby refuses your application.

RIGHT TO CHALLENGE THE DECISION

11. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within 6 weeks from the date of this letter.

12. A copy of this letter has been sent to the Exmoor National Park Authority and those who appeared at the public local inquiry.

Yours faithfully

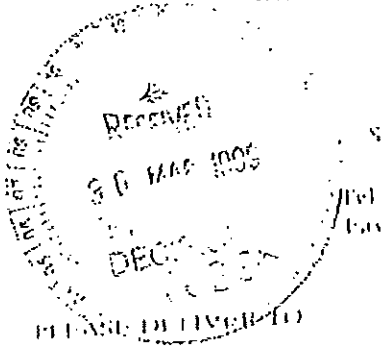
MRS E.L. PRITCHARD

Authorised by the Secretary of State for the Environment, Transport and the Regions to sign in that behalf

JOYCE LADY WALEY COHEN

HONEYMEAD
SIMONSWATH
MINNELLAD
SOMFISSETTAN ZIX

GOSW PLANNING DECISIONS TEAM		
CC No		
M/P/B	Date	Init
Decision Officer		
Case Officer		



26.399

TOTAL PAGES SENT INCLUDING COVER:

Government Office for the South West
 Planning & Transport
 Mast House
 Shepards Wharf
 24 Sutton Road
 Plymouth, Devon PL4 0HS

2.

Dear Sir

I write to express my astonishment and dismay at the Planning Application (No 6/35/99/101) made to the National Park Planning Authority, for a permanent private airfield at Treborough Common, Watchet, Exmoor.

Unfortunately, I was unable to attend the public enquiry at Dulverton but I hope I am not too late in making this objection so that you will forward this letter to the Inspector right away.

The application for a private airfield does not fulfill any of the policy requirements governing the management of the Exmoor National Park - it does not enhance the scenery or character of the landscape, it does not advantage the economy or bring any social benefit; the community will gain no benefit from this airfield. On the contrary it is well recognised that low flying aircraft, circuiting and landing are particularly intrusive in a deeply rural area where noise levels are low & views are extensive. It will threaten the privacy of those living in the Park & other quiet enjoyment of unpolluted skies & the peace of the

APPENDIX E

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be only carried out in strict accordance with the detailed specifications and plans comprised in the application hereby approved or in accordance with any minor variation thereof that may be approved by the Local Planning Authority.
3. There shall be no aircraft taking off or landing from the site before 07.30 hrs and after 20.00 hrs on any day between the 1 April and 30 September in any year nor before 08.00 hrs and after 16.00 hrs between 1 October in one year and 31 March in the next year without the prior written agreement of the Local Planning Authority.
4. No more than 10 aircraft shall be on the site at any one time without the prior written agreement of the Local Planning Authority
5. No flying training shall be undertaken from the site and no aircrafts shall take off or land from the site other than those being operated solely by fully licensed pilots.
6. There shall be no glider towing except following an emergency landing.
7. Prior to the commencement of any works required to implement the permission hereby granted, a diversion order shall be secured to re-route the public bridleway, public footpath and Highway Ratione Tenurae away from the runways on the site.
8. No development shall take place on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

APPENDIX F

Planning Inspectorate Reference:
Local Planning Authority Reference:

APP/W9500/W/16/3144478
NYM/2015/0781/FL

North York Moors National Park Authority

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP

Tel: 01439 772700

Email: general@northyorkmoors.org.uk

Planning enquiries: planning@northyorkmoors.org.uk

www.northyorkmoors.org.uk



Andy Wilson
Chief Executive

Mr Steve Quartermain
Acting Chief Executive
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Your ref: APP/W9500?W/15/3007950

Our ref: JMS/CMF/NYM/2014/0819/FL

Date: October 20th 2015

Dear Mr Quartermain

Town and Country Planning Act 1990

Appeal by Mr R Walker

Site Address: South Moor Farm, Langdale End, SCARBOROUGH, North Yorkshire,
YO13 0LW

I write concerning the above appeal and Inspector's decision to dismiss the appeal, though to allow an award of costs in respect of the reasons the Authority used to refuse the application. These were the same as those used in a previous refusal for substantially the same development, which the previous inspector discounted as not amounting to harm.

The Authority believes that there are a number of serious errors in the Inspector's reasoning in the determination of the appeal which have led to a finding that the Authority has acted in an unreasonable manner.

The key issue in this appeal and the continuing approach of the Planning Committee of the Authority in resisting this development is the incompatible nature of the aircraft flying activity on the special qualities of the National Park and the important planning issue of tranquillity, which both Planning Inspectors have failed to understand or properly address as an important planning consideration. The first decision considered this aspect only in relation to perceived noise rather than the wider concept of tranquillity in its context as a special quality of a national park which includes activities, structures, noise and a perception of remoteness, lack of



obviously man-made infrastructure and wildness. The second decision has not even referred to "tranquillity" and in looking at the previous reasons for refusal relating to this issue the inspector has not explained at all his conclusion that he has found no change in planning circumstances. There may well be no change in planning circumstances, but in not properly addressing the planning grounds of tranquillity as a special quality in the first instance, the reasoning here is missing the point. To assist, the Authority submitted further additional evidence in the second appeal to justify why the proposal would result in demonstrable harm to the tranquillity of the area – which is a planning matter intrinsically bound up in National Park purposes and therefore in statute.

The key areas of concern we have in relation to a lack of regard to legislation are therefore:

- 1) Incorrect application of Section 38(6) of the 2004 Planning Act: Paragraph 5 of the Inspector's letter states that, *"In my view the starting point in the determination of the current appeal is a previous Inspector's decision in respect to another appeal against the refusal of planning permission at the current appeal site."* Clearly, this is not a correct position to take in making a decision under the planning acts, as the above legislation requires the starting point to be the development plan. The previous inspector's decision is clearly an important material consideration but should not logically or procedurally form the "starting point" of a determination process.
- 2) Lack of Regard to Section 62 of the 1995 Environment Act: As you will be aware this legislation includes a duty of certain bodies to have regard to the purposes for which National Parks are designated in exercising or performing their functions which affect land in a National Park. The definition of "relevant authority" would include the Planning Inspectorate. The act requires such a relevant authority to have regard to the purposes and where there is a conflict, should attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park. The planning inspector's decision letter includes no reference to this duty and in the lack of consideration of the effect of the development on National Park purposes and the special quality of tranquillity which is incorporated into the second statutory purpose demonstrates that no regard has been had to this important legal duty.
- 3) In failing to take account of paragraph 115 of the NPPF, the decision making process regarding the reasons for refusal in terms of the incompatible nature of the proposal has ignored explicit government policy which states that planning decisions should give great weight to National Park purposes which have the highest status of protection in relation to landscape and scenic beauty.

We therefore believe that the inspector's decision making process was legally flawed and that the evidence in front of him relating to impact on tranquillity as a special quality provides sufficient justification for the "Authority's persistence with either its first or third refusal reasons". The conclusion that the Authority acted unreasonably is therefore not sufficiently explained or justified and in view of the serious errors relating to policy and important legislation, we believe that the costs decision is fundamentally flawed. In deciding our course of action, with regard to taking this to either a Judicial Review or complaint to the parliamentary ombudsman, it would be helpful to receive an initial response from PINS. I therefore look forward to an early reply.