

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Mr James Wallace, Wallis Metals

Against: Refusal of planning permission for change of use of land to domestic together with erection of decking

Location: land off Front Street, Grosmont

Statement by Local Planning Authority For Written Representations Appeal

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Mrs H Saunders, BA (Hons), BTP, MRTPI
For North York Moors National Park Authority

1.0 Introduction

1.1 This Statement refers to the refusal of planning permission for the construction of decking and change of use of a piece of scrubland on the outskirts of the village of Grosmont, near Whitby by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA). The decision notice was dated 28 February 2017.

2.0 Appeal Site and the Surrounding Area

2.1 Grosmont Village lies around 7 miles south west of Whitby, and is reached along Eskdaleside from the A169 between Whitby to Pickering. Grosmont is a busy tourist destination within the North York Moors National Park, with the River Esk running through it, the long distance Coast to Coast Walk running through and the North Yorkshire Moors Steam Railway having station and engine sheds here.

2.2 The appeal site comprises a piece of land that has recently been cleared of scrubland planting. It is located on the road between Grosmont and Sleights in a small grouping of houses on the outskirts of the eastern side of the village. The piece of land measures approximately 75m from the last dwelling within the settlement on that side of the road, although there is housing on the opposite side of Front Street.

2.3 The appeal site measures 8.9m wide at the roadside and 10m wide at the rear of the site and between 6.9m and 7.10m deep. To the west of the site is a small green house within allotment type land.

3 Relevant Site History

3.1 There are no previous planning applications relevant to this appeal proposal, however, there have been lengthy verbal pre-application discussions with the appellant, since December 2015, where the appellant was clearly advised by the National Park Authority that the site was outside the built-up limits of the village and was not considered suitable for any form of development.

4.0 Proposed Development and the Decision

- 4.1 The planning application was validated on 3 January 2017. Planning permission was sought to construct a timber decked area that would measure 6m wide x 3.6m deep, which due to the steeply sloping nature of the site would be on stilts at the rear of the site that would measure approximately 1.4m above ground level. The decking area would measure 6m wide x 3.6m with a steel framed glazed balustrade which would measure approximately 3.2m above the existing ground levels at the rear of the site. The appeal proposal is for this decking to be used as an isolated domestic leisure plot. It is not associated with any of the dwellings on the opposite side of the road, or any residential properties within Grosmont.
- 4.2 Strong objections were received against the proposal from Grosmont Parish Council and two residents, due to concerns regarding the introduction of inappropriate and highly visible domestic/urban type structures and usage into important woodland; issues of privacy, noise, light pollution and parking to the detriment of the amenities of adjacent properties and of visitor enjoyment (eg the Coast to Coast footpath passes directly in front of the site); precedent for further inappropriate built development in this woodland setting; land stability; no recollection of site being used as a garden and had been scrub woodland until site preparation works were undertaken and the site cleared.
- 4.3 The application was refused by the Director of Planning under powers delegated to him by the National Park Authority's Planning Committee and the Refusal Decision Notice was issued on 28 February 2017 for the following reason:

The proposed scheme does not respect or enhance the character, special qualities and distinctiveness of the locality or the wider designated National Park landscape. If permitted, the development would be visually harmful and detract from the character and appearance of this transitional area between the open countryside and the rural settlement by reason of its domestic appearance, heavily engineered design and domestic recreational use. As such the proposal is contrary to the provisions of Core Policy A and Development Policy 3 of the NYM Core Strategy and Development Policy Documents which seek to resist the loss of open spaces which contribute to the amenity, character and setting of a settlement.

5.0 Planning Policy and Guidance

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

5.2 **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 are re-stated in the English National Parks and the Broads UK Government Vision and Circular 2010.

National Park Purposes:

- *"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.

5.3 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 is therefore given legal support in addition to government policy in the determination of this appeal.

5.4 At the time of decision, the Development Plan for the area formally consisted of the **North York Moors Core Strategy and Development Plan Document (CSDPD)** which was adopted by the NPA on 13 November 2008. (The Development Plan also consists of the Whitby Business Park Area Action Plan (2014) and the Helmsley Local Plan (2015), though these do not contain policies relevant to this appeal). The most relevant policies in the determination of this appeal are considered to be:

- **Core Policy A** - "Delivering National Park Purposes and Sustainable Development"
- **Development Policy 3** – "Design"

Core Policy A of the 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, that the location of development supports the character of a settlement and conserves and enhances the landscape, settlement and building features of the local landscape.

Development Policy 3 seeks to maintain and enhance the distinctive character of the National Park by ensuring that the siting, layout and density of development preserves or enhances views into and out of the site; that the scale, height, massing and design are compatible with surrounding buildings; and that the standards of design are high.

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

5.5 The National Planning Policy Framework

5.6 Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The **National Planning Policy Framework (NPPF)** does not change the statutory status of the Development Plan as the starting point for decision making but is a material consideration in the determination of an application. Development that accords with an up-to-date Local Plan should be approved, and conversely development that conflicts should be refused unless other material considerations indicate otherwise. The North York Moors Core Strategy and Development Policies Document (CSDPD) was adopted on 13 November 2008 under the provisions of the 2004 Act and for the purposes of housing policies is considered not to conflict with national policies in the NPPF (this has been concluded in previous appeal decisions by PINS) is therefore up-to-date and should be the starting point for any decision making in the North York Moors National Park.

5.7 The Government's commitment to the protection of National Park's is clearly set out in the NPPF. **Paragraph 115** says that great weight should be given to conserving

landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. It goes on to advise that the conservation of cultural heritage is an important consideration and should be given great weight in National Parks.

5.8 Furthermore whilst at the heart of the NPPF is a presumption in favour of sustainable development, **footnote 9** confirms that development should be restricted within a National Park. It is clear therefore that the **NPPF expects a different approach to be taken in National Parks** both to plan making and decision taking compared with other areas outside of designated National Parks.

5.9 The **North York Moors National Park** was formally designated in 1952 under the National Parks and Access to the Countryside Act 1949. The two key purposes are *to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks* and *to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public*. When it appears that there is conflict between these purposes the 'Sandford principle' confirms that greater weight should be given to the first purpose, the conservation of the landscape (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: '*National Parks*' DoE, 11 September 1996.

5.10 The concept of maintaining the character of settlements in National Parks is set out in the English National Parks and Broads Circular 2010 which at paragraph 49 states:

"Cultural heritage and landscape are fundamental to quality of place and, as they are central to attractiveness, distinctiveness, diversity and quality of place in the Parks, should be protected and enhanced."

6.0 Local Planning Authority's Case

6.1 The key issues are considered to be whether the construction of the proposed domestic raised decking area, at a height considerably above the existing sloping ground levels, with steel and glazed balustrade, would have an unacceptable impact on the character and appearance of the appeal site and its setting within a nationally protected landscape. It is also important to consider whether the harm likely to be caused by the development would be outweighed by any personal benefits to the

appellant who has recently purchased the piece of land with a view to developing it, contrary to the advice provided by the National Park Authority.

- 6.2 Although there is residential development on the opposite side of the road, and the appeal site is uphill from residential properties within the main built up part of Grosmont, the site itself has the appearance and character of being outside of the village. The site slopes steeply away from the road, providing views through the trees across the open valley. The raised timber decking and glass balustrade would be clearly visible in the immediate landscape, and due to its visual isolation from other domestic development, would result in a sporadic form of development which would be harmful to the character of this part of the National Park.
- 6.3 Whilst there is a greenhouse located lower down the road, close to the appeal site, there are no planning records for this and it now appears to be within an established allotment garden. It is not considered that this creates a precedent for further inappropriate development outside the built up part of the settlement.
- 6.4 In terms of the impact of the proposal on the immediate and wider landscape, it is considered the change of use of land from scrub woodland to a domestic and engineered hard landscaped amenity space would result in an unacceptable domestic encroachment into the countryside due to its change in character resulting from decking, garden planting, paraphernalia and activity inseparable from such a use. Furthermore there is no evidence of any previous garden use of the appeal site; it has not been associated with any residential unit and the topography does not lend itself to use as a garden due to its steep gradient.
- 6.5 In addition, the proposed timber decking, by reason of extent, volume, design and general appearance would not respect or enhance the character, special qualities and distinctiveness of the locality or wider landscape; and would therefore be contrary to the provisions of Core Policy A and Development 3 of the NYM Local Development Plan
- 6.6 It is not considered that the proposal can be satisfactorily accommodated within the landscape without resulting in an adverse visual impact on the character and appearance of this part of the National Park by reason of the domestic and heavily engineered appearance of the decked area and increase in sporadic development.

The proposal would therefore conflict with National Park purposes, and is not considered to comply with Core Policy A and Development Policy 3 of the NYM Local Development Framework.

- 6.7 In terms of meeting the first statutory purpose of National Parks, the LPA is keen to ensure that any new development is of a scale and in harmony with the setting. The appeal site is open, visible from public vantage points and the LPA consider that the introduction of manmade structures here, especially of poor design, would detract from the natural beauty of the setting and conflict with the purposes of designation as a National Park.

7 Conclusion

- 7.1 The LPA does not consider that the proposal satisfies the requirements of local policy and considers that planning permission should not be given. It is considered that the proposal cannot be satisfactorily accommodated within the landscape without resulting in an adverse visual impact on the character and appearance of this part of the National Park by reason of its domestic appearance, heavily engineered design and domestic recreational use and increase in sporadic development.
- 7.3 As stated in Section 5 above, policies and decisions that could have an impact upon National Parks have to take National Park purposes into consideration. It is considered that, due to the likely adverse impact upon the open character 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 statutory both statutory purposes.
- 7.4 Therefore, the NPA respectfully requests that the Inspector dismisses the appeal, and the LPA is also making an application for costs against the appellant, this application is attached at Appendix A. However, should the Inspector be mindful to allow the appeal, a list of conditions which the NPA would wish to see imposed are attached at Appendix B.

APPENDIX A

Application for an award of appeal costs

A Information about the claimant

Full name: *North York Moors National Park Authority*

Address: *The Old Vicarage, Bondgate, Helmsley*

Postcode: *YO62 5BP*

Your reference...*NYM/2017/0006/FL*

Daytime telephone No.:*01439 77270.*

Email address: planning@northyorkmoors.org.uk

Status (Appellant/Local Planning Authority/Interested Party):

Local Planning Authority.

B Information about the party being claimed against

Full name: *Mr James Wallis*

Address: *Wallis Metals, Nicholas Lane, Goldthorpe, Rotherham, Yorishire*

Postcode: *S63 9AS*

Status (Appellant/Local Planning Authority/Interested Party):

Appellant

C Information about the appeal

Planning Inspectorate appeal reference number *APP/W9500/W/17/3176453*

Name of Local Planning Authority: *.North York Moors National Park Authority*

Description of the development:

Proposed change of use of land to domestic together with erection of decking

Address of the site: *Land off Front Street, Grosmont, Whitby, North Yorkshire, YO22 5PF*

E Your costs application

Please state what you think is:

- **the unreasonable behaviour which has caused you unnecessary or wasted expense in the appeal**

The appeal relates to a development which is clearly contrary to national planning policies which state that adopted and up to date development plan policies should be the primary determining factor when assessing planning applications.

The proposal is completely contrary to policies contained in the adopted North York Moors Local Development Framework, specifically relating to development within the open countryside and the appellant was advised of this on numerous occasions prior to submitting the planning application.

- **your unnecessary or wasted expense in the appeal (not the amount, but the kind of expense):**

Professional Officer time and administration time in completing appeal questionnaire, preparing appeal statement, attending appeal site visit and copying and postage costs.

- **your unnecessary or wasted expense in the appeal (not the amount, but the kind of expense):**

Professional Officer time and administration time in completing appeal questionnaire, preparing appeal statement, attending appeal site visit and copying and postage costs.

Please sign below

I understand that:

(a) use of this form is voluntary, and that the Planning Inspectorate may use the information I have given for official purposes in connection with the processing of my application for an award of costs

(b) the costs decision resulting from processing my application will be published on the Planning Portal and will include relevant names but not addresses

By signing this form I am agreeing to the above use of the information I have provided. I have completed all sections of the form and confirm that details are correct to the best of my knowledge.

Signature

H. Saunders

On behalf of North York Moors National Park Authority

Name (in capitals) HILARY SAUNDERS, NORTH YORK MOORS NATIONAL PARK AUTHORITY

Date. 19 July 2017

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Please note exceptions below but otherwise send this form and any supporting documents to:

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

For the attention of your appeal case officer
Or e-mail it to the email address as shown on the letter(s) you have received from your appeal case officer

APPENDIX B

Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby approved shall be only carried out in strict accordance with the detailed specifications and plans comprised in the application hereby approved or in accordance with any minor variation thereof that may be approved by the Local Planning Authority.
3. No external lighting shall in shall be installed in the development hereby permitted until details of lighting have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.
4. No external structures or paraphernalia or any storage of materials, machinery, vehicles, waste or other items shall be installed or take place on any part of the land to which this application.
5. If the use of the timber decked area for domestic leisure purposes permanently ceases within five years from the date on which the development was substantially completed, the building shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before development took place unless the Local Planning Authority has otherwise agreed in writing.

Prior to the development being brought into use details of a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for boundary planting and shall include details of any existing hedges and trees to be retained on the site together with any measures for managing/reinforcing these and shall specify plant species, sizes and planting densities for any new areas of planting. The approved details shall be carried out no later than the first planting season following the occupation of the buildings, or completion of the development, whichever is the sooner, or in accordance with a programme agreed by the Local Planning Authority. The approved landscaping scheme shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.