

The Planning Inspectorate

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The National Park Officer
NYorks Moors NP Authority
The Old Vicarage
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Your Ref: NYM4/027/0150PA
Our Ref: APP/W9500/A/03/1119016
Date: 26 September 2003

Der Sir/Madam

TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY MR C A R L BODDY
SITE AT OS FILED 6400, MEADOW BECK BARN, BELL HILL FARM, STAINTONDALE,
SCARBOROUGH, YO13 0EP

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

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

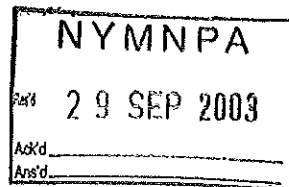
Phone No. 0117 372 8252

Fax No. 0117 372 8139

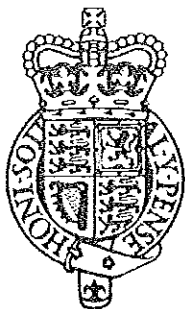
E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully

Mr Tim Mather



COVERDL1



Appeal Decision

Site visit made on 8 September 2003

by **Wenda Fabian** BA Dip Arch RIBA

an Inspector appointed by the First Secretary of State

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Date

26 SEP 2003

Appeal Ref: APP/W9500/A/03/1119016

OS Field 6400, Meadow Beck Barn, Bell Hill Farm, Staintondale, Scarborough YO13 0EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Carl Boddy against the decision of North York Moors National Park.
- The application (Ref NYM4/027/0150/PA), dated 10 February 2003, was refused by notice dated 20 March 2003.
- The development proposed is the use of land for keeping horses and the erection of a 3 bay timber stable block.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

1. No postal address for the site was entered on the application form. ~~The address given above includes the field reference number from the application form with the postal address from the appeal form and decision notice. The grid reference has not been quoted as these differ between the application form and the letter with the decision notice.~~
2. No description of the proposal was given on either the application or the appeal forms. The one included above is taken from the decision notice.
3. Detail plan No. 2 included with this appeal is the one originally submitted at planning stage. A revised version of this plan showing the proposed stable 10m from the wall to the footpath was accepted for consideration by the planning committee in reaching their decision. This is the one referred to in the Local Planning Authority's statement and appended to it. Both parties agreed at the site visit that this revised plan ~~is the subject~~ of this appeal and I have referred to it in reaching my decision.

Main Issue

4. I consider that the main issue in this case is the effect of the proposal on the character and appearance of the existing buildings and the surrounding landscape, having regard to its location in the North York Moors National Park.

Planning Policy

5. The development plan for the area is the *North Yorkshire County Structure Plan, 1995, (SP)* and the *North York Moors Local Plan, adopted May 2003, (LP)*. Policy E1 of the SP reflects the purpose of national park designation and national planning guidance in PPG7. It states that priority will be given to the conservation of the landscapes and general amenity of several areas, amongst those listed is the North York Moors National Park. Policy GP3 of the LP is a general development policy and sets out several criteria for allowing

- development, which accords with other relevant policies in the plan. These include criterion (1) that 'the design of the scheme respects or enhances the character, special qualities and distinctiveness of the locality and wider landscape'.
6. The Local Planning Authority has referred to policy BE14 from the deposit Local Plan, now adopted, which they consider relevant and to policy TR14 from the previous LP (now replaced by policy R2 of the adopted LP) which, they state, is not relevant. The first refers to the conversion of rural buildings for residential use and the second seeks to control domestic horse related development.
 7. The LPA has referred to the previous conversion of the dwelling from an agricultural building and argues that development policy relating to this seeks to prevent the visually intrusive accumulation of domestic paraphernalia such as storage buildings. However this proposal relates to a separate building outside the domestic curtilage. I therefore consider that policy R2 is more relevant to the proposal, which is for a stable. It essentially carries forward the intentions of Policy TR14 of the previous LP. It states that stables for the keeping of horses used for recreation will only be permitted where the site is within, or closely associated with, a domestic curtilage.

Reasons

8. The appeal site is part of a field, which is in front of a barn, 'Meadow Beck Barn', now converted as a residential dwelling. This property is part of a group of agricultural buildings converted to 3 dwellings, with a farmhouse, and is located in a rural setting within the North York Moors National Park. The public highway, a single-track road, passes close to one side and around the front of the property and is divided from the narrow garden by a traditional dry stone wall. To the other side of the road a timber fence encloses the field. It is proposed to construct a timber stable building in this field, in front but to the side of 'Meadow Beck Barn'.
9. A farm track, also a public right of way, joins the road at the corner of the dwelling. This right of way is divided from the field by a dry stone wall. The land falls quickly away from the wall and the higher ground in front of the property down towards a stream bounded by trees. The stable would be built parallel to the footpath, some 10m from the wall and on the lower ground at the side of the stream. The proposed stable would be 10.8 x 3.6m, constructed and clad with timber and with a corrugated metal roof. Although drawing No. 3 (A), the detail section, has not been amended, both parties at the site visit agreed that due to the site levels, the roof of the proposed stable would be approximately level with the top of the stone wall alongside the public footpath.
10. I consider that the stable would be visually linked to the dwelling, and to the group of farm buildings, by its siting. It would sit naturally with the contours of the land and would be surrounded by higher land on three sides. It would be contained as part of the group by the line of the field enclosure on one side and the stream and trees on the other. Viewed from close-by on the public footpath the roof would be mostly visible and from further along the path the mature trees alongside the stream would obstruct views of the stable. Even during winter months the trunks and branches of these trees would form a screen. In addition, the appellant has indicated on the plan his intention to plant native tree species in front of the building. During the summer months these would substantially restrict distant views of the proposed stable and in any case the dark materials proposed would cause it to blend with the landscape and the wall behind it, when viewed from a distance.

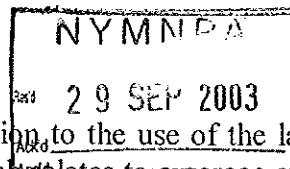
11. In my opinion the stable would be of a building type and design that is a familiar feature of the countryside and is recognisably not a normal domestic building. I note that a similar stable, albeit with a different type of roof, is already located at the opposite side of the group of farm buildings. Whilst this one was erected to replace a static caravan, it also has higher ground around it and to my mind demonstrates that the proposal would not appear obtrusive in this type of setting.
12. National planning policy guidance set out in PPG 7 states that the Government regards National Park designation as conferring the highest status of protection as far as landscape and scenic beauty are concerned. Explanatory paragraph 3 to policy R2 of the LP outlines that its intention is to protect the landscape from intrusion by isolated buildings. It continues that any proposals of this type should be located either within, or closely related to the domestic curtilage. It further defines, in the case of the latter, that the relationship to the curtilage must be clear and should not result in structures that are isolated from existing buildings.
13. Paragraph 3.21 of PPG7 states that the fact that a single house on a particular site would be unobtrusive is not by itself a good argument. However, in this instance the proposal is not for a new house, it is for a small stable related to an existing dwelling. In my opinion, the proposed stable would be modest in size and it would be inconspicuous and unobtrusive, would respect the design of the existing buildings and be closely related to them and would not interrupt the natural undulation of this agricultural landscape.
14. I conclude that the proposal would not unacceptably affect the character and appearance of the existing buildings and would conserve the surrounding landscape of the North York Moors National Park. It would consequently not be contrary to policy E1 of the Structure Plan or to policies GP3 and R2 of the Local Plan.

Other Matters

15. I note that the Local Planning Authority has raised no objection to the use of the land for keeping horses. The LPA has referred to another appeal, which ~~relates to a garage attached~~ to a dwelling converted from an agricultural building. In my view that appeal is not comparable with this one as it was for an extension within the domestic curtilage.
16. I note the LPA's concern with regard to the setting of precedent and their reference, as an example of this, to an existing application by the occupiers of the adjacent barn conversion to erect a garden shed within the curtilage of their dwelling. Any similar proposal would need to be considered on its specific planning merits, as I have done in this appeal. In assessing the proposal, the LPA would have available to it the development plan and national planning guidance. Sufficient control would be available such that I do not take precedent as an objection to this proposal.

Conditions

17. The Local Planning Authority has suggested 2 conditions. As the external cladding, finish, roof material and roof colour are fully described on the application form I see no need to attach the first condition. I also do not consider that limiting the use of the building to the one intended is necessary in view of its modest size, location and the nature of the materials to be used in its construction.



Conclusion

18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

19. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for the use of land for keeping horses and the erection of a 3 bay timber stable block at OS Field 6400, Meadow Beck Barn, Bell Hill Farm, Staintondale, Scarborough YO13 0EP in accordance with the terms of the application Ref NYM4/027/0150/PA dated 10 February 2003, and the plans submitted therewith, subject to the following conditions:

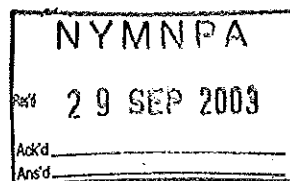
- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.

Information

20. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
21. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Wenda Fabian

Inspector



The Planning Inspectorate

RIGHT TO CHALLENGE THE DECISION

The attached appeal decision is final unless it is successfully challenged in the Courts. If a challenge is successful, the appeal decision will be quashed and the case returned to the Secretary of State for redetermination. It does not follow necessarily that the original decision on the appeal will be reversed when it is redetermined.

You may wish to consider taking legal advice before embarking on a challenge. The following notes are provided for guidance only.

Under the provision of section 288 of the Town and Country Planning Act 1990, or section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a person who is aggrieved by a decision may seek to have it quashed by making an application to the High Court on the grounds:

1. that the decision is not within the powers of the Act; or
2. that any of the 'relevant requirements' have not been complied with; ('relevant requirements' means any requirements of the 1990 Acts or of the Tribunals & Inquiries Act 1992, or of any order, regulation or rule made under those Acts).

The two grounds noted above mean in effect that a decision cannot be challenged merely because someone does not agree with the Inspector's judgement. Those challenging a decision have to be able to show that a serious mistake was made by the Inspector when reaching his or her decision; or, for instance, that the inquiry, hearing or site visit was not handled correctly, or that the appeal procedures were not carried out properly. If a mistake has been made the Court has discretion not to quash the decision if it considers the interests of the person making the challenge have not been prejudiced.

It is important to note that such an application to the High Court must be lodged with the Administrative Court within 6 weeks from the date of the decision. This time limit cannot be extended.

An appellant whose appeal has been allowed by an Inspector should note that 'a person aggrieved' may include third parties as well as the local planning authority.

If you require further advice about making a High Court challenge you should consult a solicitor, or contact the Administrative Court at the Royal Courts of Justice, Queens Bench Division, Strand, London WC2 2LL. Telephone: 020 794 76000.

INSPECTION OF DOCUMENTS

It is our policy to retain case files for a period of one year from the date of the Inspector's decision. Any person entitled to be notified of the decision in an inquiry case has a legal right to apply to inspect the listed documents, photographs and

plans within 6 weeks of the date of the decision. Other requests to see the appeal documents will not normally be refused. All requests should be made quoting our appeal reference and stating the day on which you wish to visit, to:

Room 4/09 Kite Wing,
Temple Quay House, 2 The Square,
Temple Quay,
Bristol BS1 6PN

Please give at least 3 working days notice and include a daytime telephone number, if possible.

COMPLAINTS TO THE INSPECTORATE

Any complaints about the Inspector's decision, or about the way in which the Inspector has conducted the case, or any procedural aspect of the appeal should be made in writing and quoting our appeal reference, to:

The Complaints Officer,
Quality Assurance Unit,
Room 4/09 Kite Wing,
Temple Quay House, 2 The Square,
Temple Quay, Bristol BS1 6PN.

You should normally receive a reply within 15 days of our receipt of your letter. You should note however, we cannot reconsider an appeal on which a decision has been issued. This can be done following a successful High Court challenge as explained overleaf.

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (THE OMBUDSMAN)

If you consider that you have been unfairly treated through maladministration by us you can ask the Ombudsman to investigate. The Ombudsman cannot be approached direct; reference can be made to him only by an MP. While this does not have to be your local MP (whose name and address will be in the local library) in most cases he or she will be the easiest person to approach. Although the Ombudsman can recommend various forms of redress he cannot alter the Inspector's decision in any way.

COUNCIL ON TRIBUNALS

If you feel there was something wrong with the basic procedure used for the appeal, a complaint can be made to the 'Council on Tribunals', 22 Kingsway, London WC2B 6LE. The Council will take the matter up if they think it comes within their scope. They are not concerned with the merits and cannot change the outcome of the appeal decision.