

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Mr and Mrs Coldbeck

Appeal type: Written

Against: North York Moors National Park Authority

Planning Inspectorate ref(s): 6008430 and 6008431

Our ref: NYM/0004/2026

Location: The Old Post Office, Harwood Dale, Scarborough, YO13 0LA

Statement by Local Planning Authority

1. Introduction

The timber gates and fencing, subject of this appeal, were erected on site in 2025.

The works were noted as part of a separate investigation into another matter.

The adjacent farm building (former Smithy) is Grade II Listed and accordingly fencing and gates within the curtilage of or surrounding a Listed Building require planning permission.

An application for planning permission has not been submitted and as such this appeal related to unauthorised development. It should be noted that the appellant considers that Planning Permission is not required for the development.

2. Appeal site and the surrounding Area

The site is in a prominent position adjacent to the road and a Public Right of Way.

- The site comprises a traditional stone house and detached smithy on the road frontage in a rural hamlet comprising a handful of properties. The traditional farm building on the site frontage is a Listed Building. More recently the smithy has been used for agricultural purposes, although its historic interior including two furnaces, each with hand-operated bellows and two anvils and two water troughs are still believed to be inside. The site is surrounded by far reaching views across the surrounding Dale and countryside.

3. Relevant site history

None

4. Proposed development and the decision

Close boarded Fencing and gates have been erected on the road frontage and the dry stone wall has been removed to widen the access to the north of the site

5. Planning policy and guidance

This section covers both the statutory Development Plan and the general implications of the location of the appeal site within a National Park.

At the time of decision, the Development Plan for the area formally consisted of the North York Moors Local Plan which was adopted by the NPA on 27 July 2020. (The Development Plan also consists of the Whitby Business Park Area Action Plan (2014), the Helmsley Local Plan (2015) and the Minerals and Waste Joint Plan (2022), though 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 National Planning Policy Framework (NPPF) does not change the statutory status of the Development Plan as the starting point for decision making but is an important 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 Local Plan (NYMLP) was adopted on 27 July 2020 under the provisions of the Town and Country Planning (Local Planning)(England) Regulations 2012 and does not conflict with national policies in the NPPF. It is therefore up-to-date and should be the starting point for any planning decision making in the North York Moors National Park.

The Government's commitment to the protection of National Parks is clearly set out in the NPPF (December 2024). Paragraph 189 says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection.

Furthermore, whilst at the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 190 also confirms that the scale and extent of development within these designated areas should be limited. 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. These do not contain policies relevant to this appeal.

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.

The National Parks and Access to the Countryside Act 1949 has been amended by Section 245 of the Levelling-up and Regeneration Act 2023 as follows: -

In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

6. Local Planning Authority's case

The site is particularly sensitive due to the traditional character and setting of the listed farmhouse and outbuildings within this prominent roadside location within the National Park. Strategic Policy A requires that new development should conserve and enhance the natural beauty, wildlife and cultural heritage. The fencing and gates that have been installed are considered to dominate the entrances to the farmyard and farmhouse introducing an industrial scale and character of development. The removal of the dry stone wall and widening of the access has eroded away the character and traditional entranceway way to the Listed Building. Google Streetview from 2011 shows the low scale and traditional nature of the boundary treatments. There was no entrance gate to the south of the site (closest to the GR post box). The nature of the works are not only dominating but removes long distance views across the site to the surrounding dale, which affects the setting of the Listed Building known as Moor End Road (South Side) Smithy (list entry no. 1148209

Strategic Policy I relates specifically to the historic environment and states that all developments affecting the historic environment should make a positive contribution to the cultural heritage and local distinctiveness of the National Park through the conservation and, where appropriate, enhancement of the historic environment. Development should conserve heritage assets and their setting in a manner appropriate to their significance, especially those assets which contribute most to the distinctive character of the area.

The significance of the Listed Building is derived through its age, design, use of materials and example of local vernacular architecture. The boundary treatments sit within the setting of the Listed Building and impact on the overall character and appearance of the site and the significance of the Listed Building and its setting.

The style, form and design of gates and fencing including their height are considered to result in less than substantial harm to the significance of the Listed Building.

Policy ENV11 relates to built heritage and states that proposals will only be permitted where they conserve, enhance or better reveal elements which contribute to the

significance of the heritage asset or its setting including key views, approaches and qualities of the immediate and wider environment that contribute to its value and significance.

The requirement of the NPPF is that where any harm is identified to the significance of the Listed Building, in this case the setting, that harm must be given great weight and importance in the decision. Where any harm is identified, an approval can only be reached, where there is identified public benefit, sufficient to off-set the identified harm. In this case, it is considered that the development results in less than substantial harm to the significance of the listed building and that all benefits resulting from the development are of a private nature. Given the identified harm and in the absence of public benefits resulting from the development it is considered that the only course of action available is for the appeal to be dismissed.

7. Matters of Common Ground

There are no matters of Common Ground between parties.

8. Comments on Grounds of Appeal

The appellant believes that the fencing and gates do not require consent as there were previously gates on the site. Streetview records (April 2025) clearly show double metal five bar gates and a pedestrian gate at the eastern end of the site not exceeding 1 metre in height and single timber five bar gate and pedestrian gate at the western end of the site which have been replaced with the current solid timber fence and gates which exceed 2 metres in height.

Within the curtilage of a Listed Building the fencing and gates require planning permission.

Although the appellants mention security as a justification for the works - this is not considered to outweigh the harm occurring to the setting of the Listed Buildings in this rural hamlet

There is also a Public Right of Way which extends through the farmyard at the eastern end of the site which means that public access through the site is a legal requirement.

The Rights of Way team have provided comments which are attached at appendix 1.

9. Conclusion

Therefore, the NPA respectfully requests that the Inspector dismisses the appeal.

Appendix 1 - Rights of Way Team Comments

Old Post Office, Harwood Dale & Public Footpath 20 Harwood Dale.



Photo 1



Photo 2

As on 5 August 2026. Photo 1 taken from C76 public road; photo 2 taken from inside the farmyard.

Furniture previously recorded at the farmyard entrance/on Public Footpath 20:

As taken by Google Earth in September 2011 – the farmyard entrance consisted of two timber field-gates and a section of dry-stone wall.



As taken by Google Earth in April 2025 – the dry-stone wall has been removed and two metals field-gates provide access to the farmyard, whilst the adjacent timber hand-gate provides access to the Public Footpath.



I became aware (from the Planning Enforcement team) that the landowner had installed a new gate across the footpath and two new field-gates at the farm-yard entrance (as

Old Post Office, ~~RoW~~ notes Aug 26

shown in photos 1 and 2) in October 2025 & undertook a site inspection the footpath on 20th October 2025 with Area Ranger (Beth Ghest).

Comments:

From a Public Rights of Way point of view, the footpath must be clearly signed from the public highway (C76), the surface of the path must be safe and of a standard that is passable by anyone on foot (in order to pass and repass), all items of furniture across the path must be easy to use and the path itself must be free from obstruction.

The missing signpost at the side of the C76 road is an issue for this Authority & will be rectified shortly.

The heaps of stone as seen at the back of the farmyard in the Google Earth image dated April 2025, were clearly subsequently spread over the surface of the footpath - confirmed by photo 2, taken yesterday. It is unlawful for a landowner to disturb the surface of a Right of Way without consent from this Authority. However, as the surface is passable by people on foot, no further action is necessary.

Our internal RoW furniture records and the Google Earth image from April 2025, both confirm that there used to be a 1.2m/4ft timber hand-gate across the footpath. However, photo 1 clearly shows that the gate now in situ is a larger, 1.5m/5ft timber bridle-gate that has also had wooden cladding attached to it. It would have been preferable if the landowner had contacted us prior to replacing the gate, but his actions aren't unlawful and the gate is fully usable by walkers.

My concerns are with the cladding attached to both the bridle-gate and adjacent field-gates. Collectively, the cladding does make the farm entrance appear to be private, out of bounds to all and that Public Footpath 20 Harwood Dale doesn't leave the public road at this location. A recent complaint made to this Authority confirms this. It is unlawful to deter access to/along a Public Right of Way and thus, I believe the cladding must be removed. Once done so, the landowner (in conjunction with the Area Ranger) could erect a sign on the bridle-gate with wording such as, "Public Footpath – walkers only" on it to direct people along the path. They could also (if they wish) erect a sign on the field-gates with wording such as "private vehicle access" to clarify matters.

If you require any further information, please contact me.

Thank you.

Emma Ashton-Wickett
Rights of Way Officer
North York Moors National Park Authority