

Appeal 6008430

Appeal questionnaire

Submitted on 24 July 2026.

Appeal type	Enforcement notice
Appeal site	The Old Post Office, Harwood Dale, Scarborough, YO13 0LA
Appellant contact details	
Application number	

Constraints, designations and other issues

Is enforcement the correct type of appeal?	Yes
Changes a listed building	No
Affects a listed building	Yes
Listed Building	1148209 II SMITHY
Affects a scheduled monument	No
Conservation area	No
Protected species	No
Green belt	No
Is the site in a national landscape?	No
Designated sites	No, it is not in, near or likely to affect any designated sites
Tree Preservation Order	No
Gypsy or Traveller	No
Public right of way	No
Does the enforcement notice relate to building, engineering, mining or other operations?	Yes

What is the area of the appeal site?	29
Is the area of the alleged breach the same as the site area?	Yes
Does the alleged breach create any floor space?	No
Does the enforcement notice include a change of use of land to dispose, refuse or waste materials?	No
Does the enforcement notice include the change of use of land to dispose of remaining materials after mineral extraction?	No
Does the enforcement notice include a change of use of land to store minerals in the open?	No
Does the enforcement notice include the erection of a building or buildings?	No
Is the building on agricultural land and will it be used for agricultural purposes?	Yes
Is the enforcement notice for a single private dwelling house?	No
Is the appeal site within 67 metres of a trunk road?	No
Is the appeal site on Crown land?	No
Did you serve a stop notice?	No
Did you restrict any development rights using a planning condition?	No

Environmental impact assessment

What is the development category?	Other
Issued screening opinion	No
Did the appellant submit an environmental statement?	No

Notifying relevant parties

Upload the enforcement notice	ENFORCEMENT NOTICE - ENFORCEMENT NOTICE NYM0004-2026 Old Post Office.pdf (/document/ba00d587-85f9-4913-bd66-9ee299bbc2e5)
--------------------------------------	---

Upload the enforcement notice plan	ENFORCEMENT NOTICE - ENFORCEMENT NOTICE NYM0004-2026 Old Post Office.pdf (/document/7437e075-9e38-434f-8f35-add4b1e7efb5)
Upload the list of people you served the enforcement notice to	ENFORCEMENT NOTICE - ENFORCEMENT NOTICE NYM0004-2026 Old Post Office.pdf (/document/bce58d31-bc58-41f3-bb4a-9803fb1336f8)
Upload the appeal notification letter and the list of people that you notified	To follow.docx (/document/69a13e0d-b1a2-4a49-b5dd-22de577a6bfb)

Planning officer's report and supporting documents

Do you have a planning officer's report?	Yes
Upload planning officer's report	ENFORCEMENT - DELEGATED AUTHORITY REPORT NYM0004-2026 Old Post Office.pdf (/document/a635cd52-8a24-4e80-9c10-9dbfb3216b84)
Do you have any relevant policies from your statutory development plan?	Yes
Policies from statutory development plan	2020 Copy of Front Sheet.pdf (/document/81c2c94d-b010-4bca-a3e7-05411dbb9c57) ENV11.pdf (/document/1fe7646c-a612-4923-9250-3833c369ed73) SPA.pdf (/document/15ed51dd-76f8-4c81-a963-3b131c32faec) SPI.pdf (/document/c1bc6e05-1e82-4b76-a708-7b55f17bf352) Title Page 2020.pdf (/document/2bbf3bf5-6b8f-419c-918a-ee04d03cca36) SPE.pdf (/document/f070cfd3-2e7f-4a99-b3e3-fc04ca36f78c)
Do you have any other relevant policies?	No
Supplementary planning documents	No
Community infrastructure levy	No
Do you have a local development order?	No
Did you previously grant any planning permission for this development?	No
Did you serve a planning contravention notice?	No

Site access

Access for inspection	No
Will the inspector need to enter a neighbour’s land or property?	No
Potential safety risks	No

Appeal process

Procedure type	Written representations
Appeals near the site	No
Extra conditions	No

North York Moors National Park Authority

Delegated Authority for Enforcement Action

Date: 5 March 2026

Reference: NYM0004/2026

Site: The Old Post Office, Harwood Dale

1.0 Purpose of the report

1.1 To authorise that enforcement action be taken with regard to the unauthorised erection of timber fencing and gates.

2.0 Background

2.1 The timber gates and fencing were erected on site in 2025.

2.2 The works were noted as part of a separate investigation.

2.3 The adjacent buildings are Listed and accordingly fencing and gates within the curtilage of or surrounding a Listed Building require planning permission.

3.0 Site and surroundings

3.1 The site is in a prominent position adjacent to the road and a public right of way.

3.2 The site comprises a farm and farm buildings in a rural hamlet.

4.0 Policy and legislation

4.1 Strategic Policy A - Achieving National Park Purposes and Sustainable Development.

5.0 Main issues

5.1 The main concern is that the timber gates and fencing look out of character in this rural location and are considered to be harmful to that character, where previously there were simple farm gates.

5.2 The development is adjacent to the Listed farmhouse and outbuildings and is considered to be detrimental to their setting and as such results in less than substantial harm to the significance of the designated heritage asset.

6.0 Public interest test

6.1 It is in the public interest to remedy the breach and ensure that the land is restored to its former condition.

7.0 The Notice

7.1 The Notice will require the removal of the fencing and gates.

8.0 Conclusions

8.1 Enforcement action is considered necessary and in the public interest to bring about the proper planning control of the site and remove the harm to the significance of the heritage asset.

9.0 Contribution to Management Plan objectives

9.1 **Landscape Quality:** Maintaining the sense of remoteness and tranquillity while protecting heritage assets.

10.0 Resource implications

10.1 The resource and legal implications depend on the response of the recipients of the enforcement notice. Potentially an appeal could be brought, leading to a public inquiry; if the notice is then upheld (or not appealed) but subsequently not complied with then the Authority may become engaged in legal proceedings and/or in taking steps to directly secure compliance with the requirements of the notice.

11.0 Financial implications

11.1 The financial implications depend on the level of enforcement intervention necessary. Further reports and updates would be provided.

12.0 Human Rights consideration

12.1 All decisions relating to planning matters should comply with the requirements of the Human Rights Act 1998 (HRA). Article 8 of the HRA relates to the right to respect for private and family life, home and correspondence, the first protocol Article 1 relates to the right to property. The Convention rights conferred by HRA are qualified and there are circumstances when interference with them is justified; however, all interference must be proportionate.

12.2 The decision to authorise enforcement action would be justifiable interference with the landowner's Convention rights given that their actions are not in accordance with Planning Law and are harmful to the appearance and special qualities of the National Park contrary to the Development Plan. The enforcement action recommended is considered to be proportionate with the need to remedy the breach.

13.0 Recommendation

13.1 That enforcement action be taken to remove the fencing and gates.

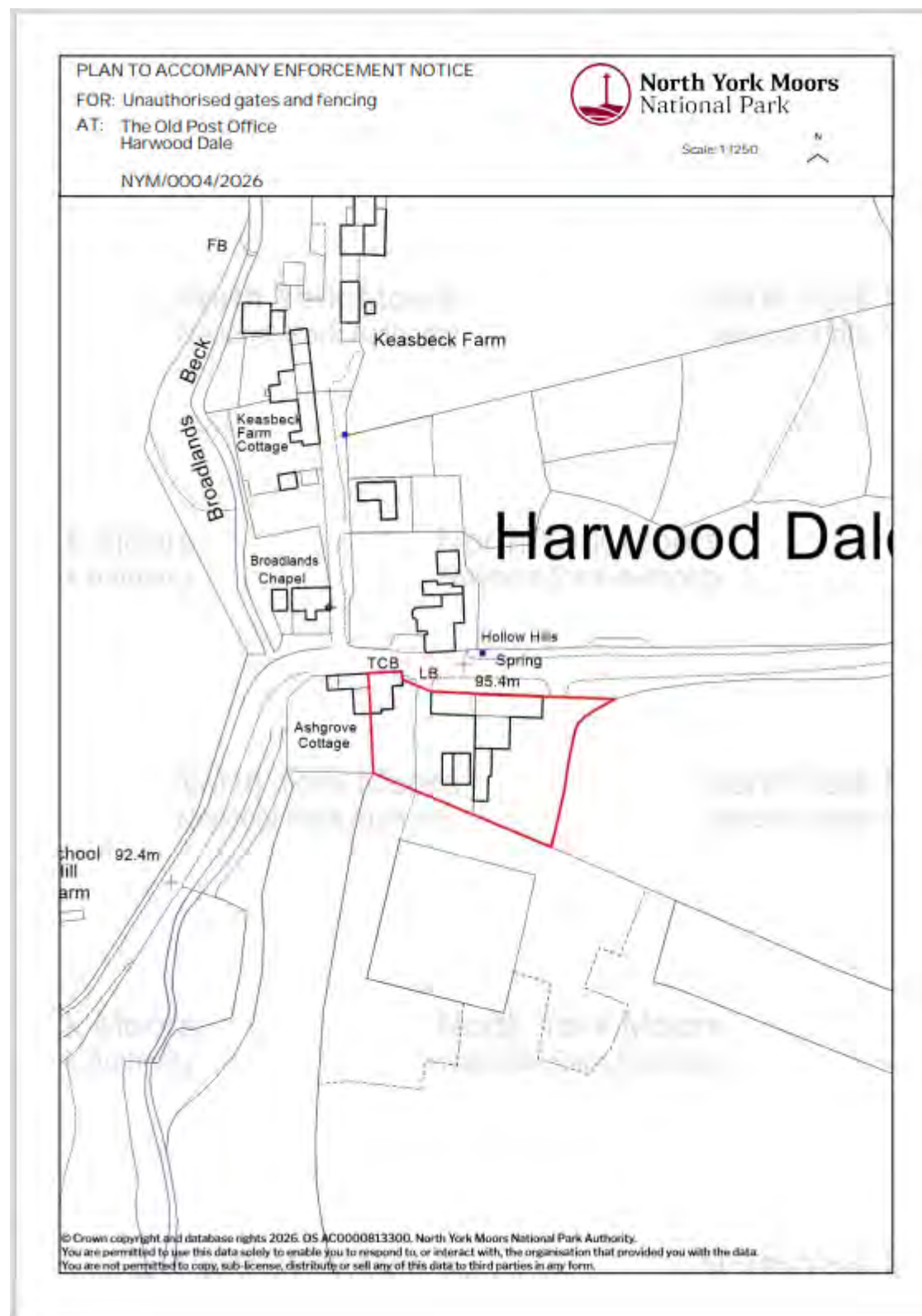
Contact officer: Peter Jones

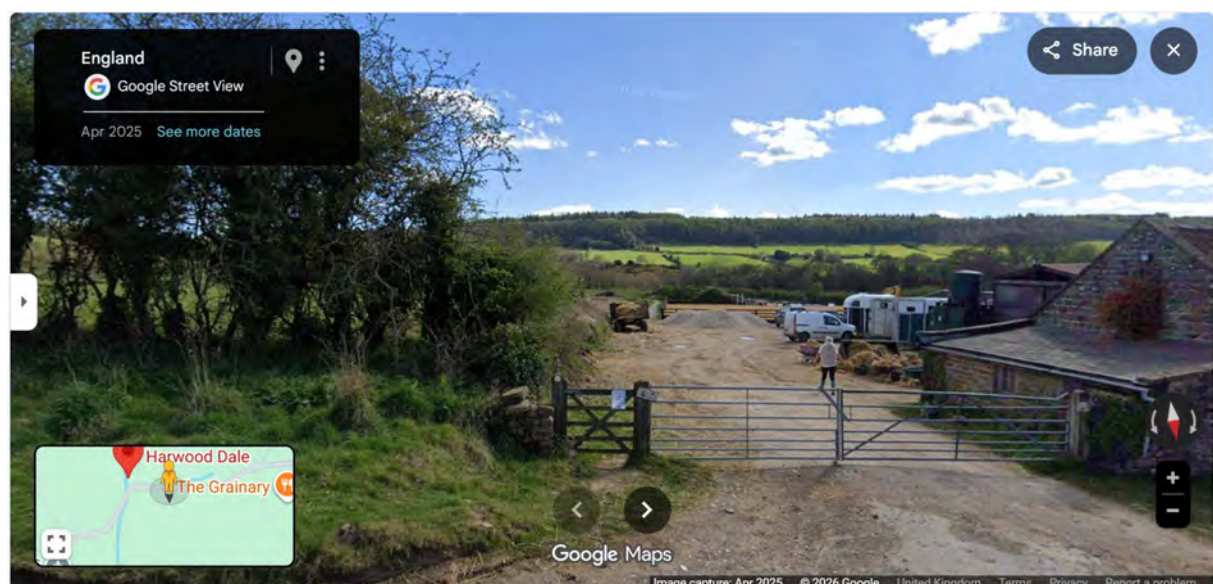


Signed:

Mr Chris France
Director of Planning

Date: 09/03/2026







Mr Nick John Coldbeck
The Old Post Office
Harwood Dale
Scarborough
YO13 OLA

Your ref:
Our ref: NYM/0004/2026
Date: 13 March 2026

Dear Mr Nick John Coldbeck

Important: This communication affects your property

Enforcement Notice served under section 172 of the Town and Country Planning Act 1990 (as amended) for fencing and gates at The Old Post Office, Harwood Dale

The National Park Authority has issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice as you have an interest in the land. Further copies of the Notice may be served on other persons, as set out in the Notice.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the Notice. Unless an appeal is made the Notice will take effect on **22 April 2026** and you must then ensure that the required steps, for which you may be held responsible, are taken within the **3 month** time period specified in the Notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal. If you decide that you want to appeal against the Enforcement Notice you must ensure that you send your appeal so that it is received by The Planning Inspectorate before the date on which the Notice takes effect.

The grounds for appeal are contained in Section 174 of the Town and Country Planning Act 1990 (as amended) and are stated on The Planning Inspectorate website.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of **£524** to the National Park Authority, made payable to the North York Moors National Park Authority. This is double the amount payable for a normal planning application. Joint appellants need only pay one fee.

Where planning advice is required prior to the submission of a planning application charges will also be incurred. Details of the scheme of charging are available from the Authority's website (<https://www.northyorkmoors.org.uk/planning/planning-and-administration-advice>).

I trust the above clarifies the planning position however should you wish to discuss this matter further please do not hesitate to contact me.

Yours sincerely

Peter Jones

Mr Peter Jones
Head of Development Management

Working together to sustain the landscape and life of the
North York Moors for both present and future generations to enjoy

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP
01439 772700 general@northyorkmoors.org.uk
planning@northyorkmoors.org.uk northyorkmoors.org.uk



Mrs Beata Coldbeck
The Old Post Office
Harwood Dale
Scarborough
YO13 OLA

Your ref:
Our ref: NYM/0004/2026
Date: 13 March 2026

Dear Mrs Beata Coldbeck

Important: This communication affects your property

Enforcement Notice served under section 172 of the Town and Country Planning Act 1990 (as amended) for fencing and gates at The Old Post Office, Harwood Dale

The National Park Authority has issued an Enforcement Notice relating to the above land and I now serve on you a copy of that Notice as you have an interest in the land. Further copies of the Notice may be served on other persons, as set out in the Notice.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the Notice. Unless an appeal is made the Notice will take effect on **22 April 2026** and you must then ensure that the required steps, for which you may be held responsible, are taken within the **3 month** time period specified in the Notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal. If you decide that you want to appeal against the Enforcement Notice you must ensure that you send your appeal so that it is received by The Planning Inspectorate before the date on which the Notice takes effect.

The grounds for appeal are contained in Section 174 of the Town and Country Planning Act 1990 (as amended) and are stated on The Planning Inspectorate website.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of **£524** to the National Park Authority, made payable to the North York Moors National Park Authority. This is double the amount payable for a normal planning application. Joint appellants need only pay one fee.

Where planning advice is required prior to the submission of a planning application charges will also be incurred. Details of the scheme of charging are available from the [Authority's website](https://www.northyorkmoors.org.uk/planning/planning-and-administration-advice) (<https://www.northyorkmoors.org.uk/planning/planning-and-administration-advice>).

I trust the above clarifies the planning position however should you wish to discuss this matter further please do not hesitate to contact me.

Yours sincerely

Peter Jones
Mr Peter Jones
Head of Development Management

Continued...



Important – This communication affects your property

Enforcement Notice

**Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991) ('the Act')**

Reference: NYM0004/2026

Served by North York Moors National Park Authority (hereafter referred to as the 'Authority')

1. This Notice is issued by the Authority because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. **The Annex at the end of the notice and the enclosures to which it refers contain important additional information.**

2. The land to which the Notice relates

The land ("the Land") at The Old Post Office, Harwood Dale shown edged in red on the attached plan ("the Plan").

3. The matters which appear to constitute the breach of planning control

Without planning permission, **the erection of gates and fencing in the approximate position marked by a black star.**

4. Reasons for issuing this Notice

It appears to the Authority that the operational development/material change of use (delete as appropriate) has occurred without planning permission in the last four/ten years (delete as appropriate) and it is therefore expedient to take enforcement action for the following reasons:

In the interests of the public amenity and character of the area. The development is considered to be contrary to Strategic Policy A - Achieving National Park Purposes and Sustainable Development.

The Authority does not consider that planning permission could be granted, and no conditions could overcome the concerns and policy conflict that is referred to above.

5. What you are required to do

- i. **Remove the gates and fencing**

6. Time for compliance

Within **3 months** from the date upon which this notice takes effect.

7. When this Notice takes effect

This Notice takes effect on **22 April 2026**, unless an appeal is made against it beforehand.



Signed:

Dated: 09/03/2026

Mr Chris France
Director of Planning
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

Nominated Officer: Rosie Gee
Telephone Number: 01439 772700

Annex

Your right of appeal

You can appeal against this Notice, but any appeal must be received, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

What happens if you do not appeal

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the Notice. **Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.**

Grounds of appeal

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:

- a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted, as the case may be, the condition or limitation concerned ought to be discharged;
- b) that those matters have not occurred;
- c) that those matters (if they occurred) do not constitute a breach of planning control;
- d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- e) that copies of the Enforcement Notice were not served as required by section 172;
- f) that steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all these grounds may be relevant to you.

Statement on grounds of appeal

You must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice so requiring, a statement in writing specifying the grounds on which you are appealing against the Enforcement Notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

Statutory provisions

A copy of sections 171A, 171B and 172 to 177 of the 1990 Act are attached for your information.

Planning application fee

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the Notice and you will have to pay a fee of **£524** to the National Park Authority, made payable to the North York Moors National Park Authority. This is double the amount payable for a normal planning application. Joint appellants need only pay one fee.

List of names and addresses of persons on whom this Enforcement Notice has been served

Mr Nick John Coldbeck
The Old Post Office
Harwood Dale
YO13 OLA

Mrs Beata Coldbeck
The Old Post Office
Harwood Dale
YO13 OLA

PLAN TO ACCOMPANY ENFORCEMENT NOTICE

FOR: Unauthorised gates and fencing

AT: The Old Post Office
Harwood Dale

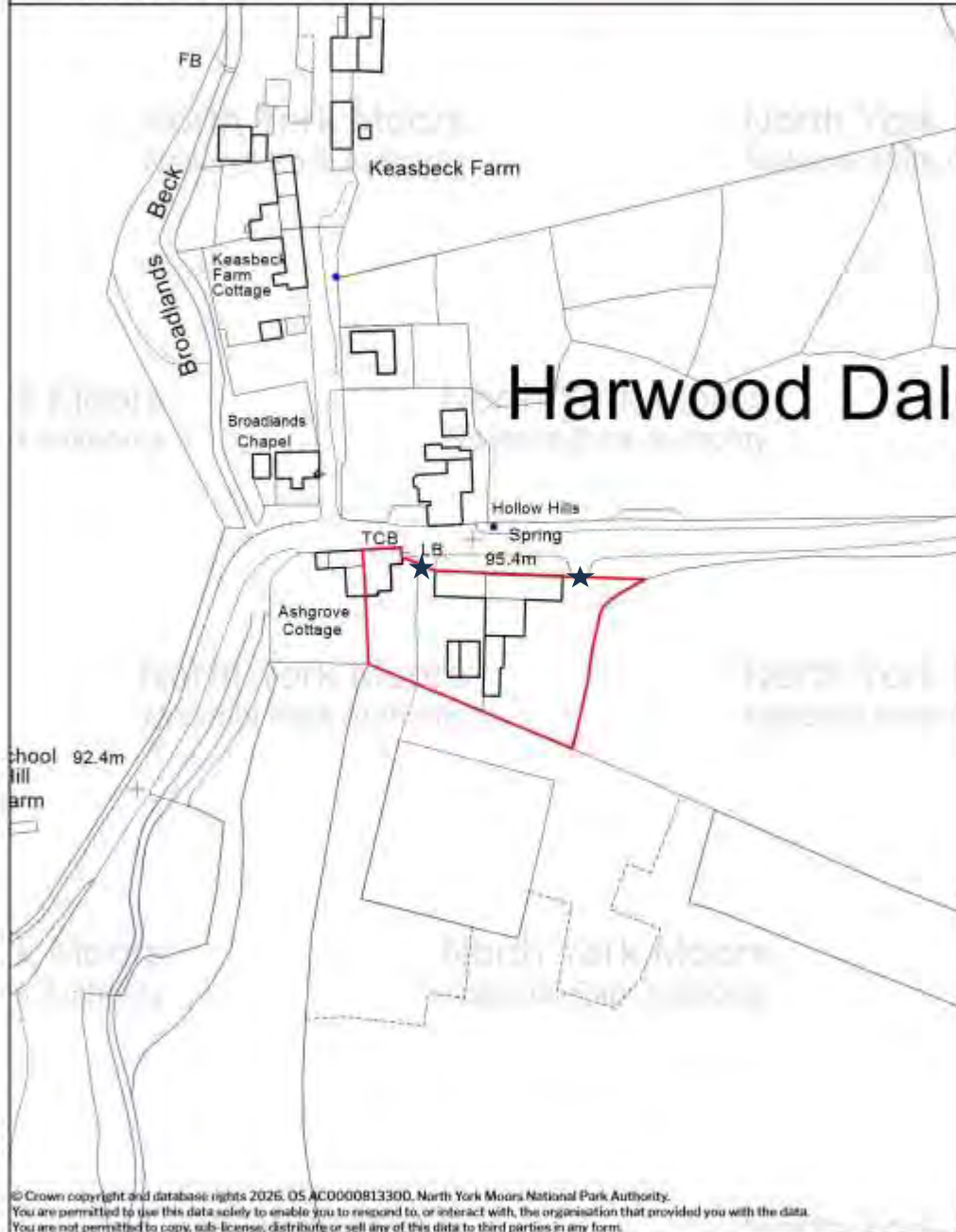


North York Moors
National Park

Scale: 1:1250



NYM/0004/2026



© Crown copyright and database rights 2025. OS AC0000813300. North York Moors National Park Authority.
You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data.
You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal form.

Statutory provisions

These provisions are extracted from the Town and Country Planning Act 1990 and are provided in accordance with Regulation 5, Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002.

171A Expressions used in connection with enforcement.

1. For the purposes of this Act—
 - a) carrying out development without the required planning permission; or
 - b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.
2. For the purposes of this Act—
 - a) the issue of an enforcement notice (defined in section 172);
 - aa) the issue of an enforcement warning notice (defined in section 173ZA); or
 - b) the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.
3. In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

171B Time limits

1. Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
2. Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- 2A. There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).]
3. In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
4. The preceding subsections do not prevent—
 - a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.]

172 Issue of enforcement notice.

1. The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—
 - a) that there has been a breach of planning control; and

- b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- 2. A copy of an enforcement notice shall be served—
 - a) on the owner and on the occupier of the land to which it relates; and
 - b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- 3. The service of the notice shall take place—
 - a) not more than twenty-eight days after its date of issue; and
 - b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

172A Assurance as regards prosecution for person served with notice

- 1. When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—
 - a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,
 - b) giving the person one of the following assurances—
 - i. that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or
 - ii. that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,
 - c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and
 - d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- 2. At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.
- 3. The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- 4. Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

5. An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.]

173 Contents and effect of notice.

1. An enforcement notice shall state—
 - a) the matters which appear to the local planning authority to constitute the breach of planning control; and
 - b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
2. A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
3. An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
4. Those purposes are—
 - a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - b) remedying any injury to amenity which has been caused by the breach.
5. An enforcement notice may, for example, require—
 - a) the alteration or removal of any buildings or works;
 - b) the carrying out of any building or other operations;
 - c) any activity on the land not to be carried on except to the extent specified in the notice; or
 - d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
6. Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
7. A replacement building—
 - a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
8. An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

9. An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
10. An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
11. Where—
 - a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
 - b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
12. Where—
 - a) an enforcement notice requires the construction of a replacement building; and
 - b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

173A Variation and withdrawal of enforcement notices.

1. The local planning authority may—
 - a) withdraw an enforcement notice issued by them; or
 - b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
2. The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
3. The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
4. The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

174 Appeal against enforcement notice.

1. A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
2. An appeal may be brought on any of the following grounds—

- a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- b) that those matters have not occurred;
- c) that those matters (if they occurred) do not constitute a breach of planning control;
- d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- e) that copies of the enforcement notice were not served as required by section 172;
- f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

2A. An appeal may not be brought on the ground specified in subsection (2)(a) if—

- a) the land to which the enforcement notice relates is in England, and
- b) the enforcement notice was issued at a time—
 - i. after the making of a related application for planning permission, but
 - ii. before the end of the period applicable under section 78(2) in the case of that application.

2B. An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.

2C. Where any breach of planning control constituted by the matters stated in the notice relates to relevant demolition (within the meaning of section 196D), an appeal may also be brought on the grounds that—

- a) the relevant demolition was urgently necessary in the interests of safety or health;
- b) it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter; and
- c) the relevant demolition was the minimum measure necessary.]

2D. An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2)(a), if—

- a) the land to which the enforcement notice relates is in Wales, and
- b) the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).

- 2E. An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if—
- a) the land to which the enforcement notice relates is in Wales, and
 - b) the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.
- 2F. For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which—
- a) the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;
 - b) an appeal has been dismissed under section 79(6A).
3. An appeal under this section shall be made
- a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or
 - c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.
4. A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- a) specifying the grounds on which he is appealing against the enforcement notice; and
 - b) giving such further information as may be prescribed.
5. If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
6. In this section “relevant occupier” means a person who—
- a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence.; and
 - b) continues so to occupy the land when the appeal is brought.

175 Appeals: supplementary provisions.

1. The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - b) specify the matters to be included in such a statement;

- c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
2. The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
 3. Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- 3A. Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.
- 3B Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in Wales.
4. Where an appeal is brought under section 174 the enforcement notice shall subject to any order under section 289(4A) be of no effect pending the final determination or the withdrawal of the appeal.
 5. Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
 6. Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.
 7. Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings in England before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

176 General provisions relating to determination of appeals.

1. On an appeal under section 174 the Secretary of State may—
 - a) correct any defect, error or misdescription in the enforcement notice; or
 - b) vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
 2. Where the Secretary of State determines to allow the appeal, he may quash the notice.
- 2A. The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.
3. The Secretary of State—
 - a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

- b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- 4. If section 175(3) would otherwise apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- 5. Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

177 Grant or modification of planning permission on appeals against enforcement notices.

- 1. On the determination of an appeal under section 174, the Secretary of State may
 - a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
 - b) discharge any condition or limitation subject to which planning permission was granted;
 - c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.
- 1A. The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection
- 1(c). as they apply for the purposes of section 191, but as if—
 - a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - b) references to the local planning authority were references to the Secretary of State.
- 1B. Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194
- 1C. Subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).
- 2. In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
- 3. The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

4. Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

4A. Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted under subsection (4) as it applies in relation to conditions imposed on a grant of planning permission to develop land which is granted on an application made under Part 3.

5. Where—

- a) an appeal against an enforcement notice is brought under section 174, and
- b) the statement under section 174(4) specifies the ground mentioned in section 174(2)(a), the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

5A. Where—

- a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
 - b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.
6. Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.
7. In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.
8. For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.



Official copy of register of title

Title number NYK312261

Edition date 02.05.2024

- This official copy shows the entries on the register of title on 05 MAR 2026 at 14:07:42.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 05 Mar 2026.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Durham Office.

A: Property Register

This register describes the land and estate comprised in the title.

NORTH YORKSHIRE

1 (20.09.2005) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Harwood Dale and The Old Post Office, Harwood Dale, Scarborough (YO13 0LA).

2 (20.09.2005) The land tinted blue on the title plan has the benefit of the following rights granted by a Conveyance thereof dated 11 April 1931 made between (1) The Right Honourable George Harcourt Baron Derwent (Vendor) (2) Ronald Malcolm and The Honourable Jasper Nicholas Ridley and (3) Francis Thompson Tindall (Purchaser) :-

"Together with the right as now used and enjoyed for the Purchaser his successors in title and assigns in common with all other persons now or hereafter having the like right of drawing water from the springs on the property situate on the other side of the road on which the property hereby conveyed abuts."

3 (20.09.2005) The Conveyance dated 11 April 1931 referred to above contains the following provision:-

"It is hereby declared that the wall on the west side of the property hereby conveyed and the site thereof form part of such property and that the walls on the south and east sides of the property hereby conveyed and the sites thereof respectively belong to the Vendor and that all drains fallpipes gutters and gullies used jointly with any adjoining property shall be joint and party drains fallpipies gutters and gullies and maintainable accordingly"

4 (20.09.2005) The land tinted pink on the title plan has the benefit of the following rights granted by a Conveyance thereof dated 4 August 1931 made between (1) The Right Honourable George Harcourt Baron Derwent (2) Ronald Malcolm and The Honourable Jasper Nicholas Ridley and (3) Francis Thompson Tindall (Purchaser) :-

"TOGETHER with the right as now used and enjoyed for the Purchaser his successors in title and assigns in common with all other persons now or hereafter having the like right of drawing water from the spring on the side of the road upon which the property hereby conveyed abuts."

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Title number NYK312261

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (19.09.2017) PROPRIETOR: NICHOLAS JOHN COLDBECK and BEATA COLDBECK of The Old Post Office, Harwood Dale, Scarborough YO13 0LA.
- 2 (19.09.2017) The price stated to have been paid on 5 September 2017 for the land in this title and in YEA84941 was £332,500.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (20.09.2005) The land is subject to the rights granted by a Transfer of other land dated 20 October 2000 made between (1) Harry Thompson Tindall and John Marshall and (2) Sean Anthony Milburn and Tina Roberts.

NOTE: Copy filed.

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

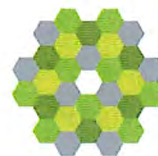
Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

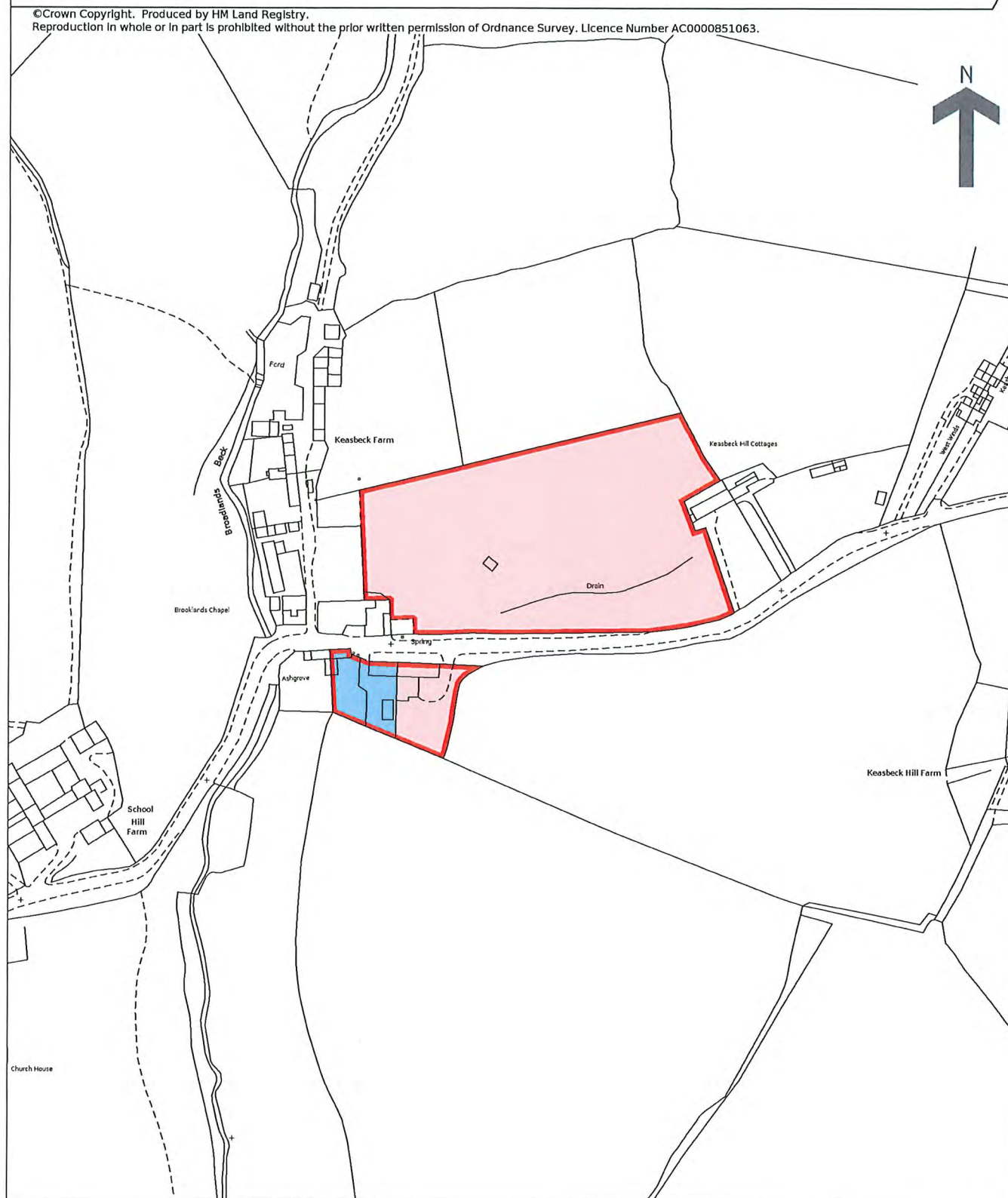
This official copy is issued on 05 March 2026 shows the state of this title plan on 05 March 2026 at 14:07:42. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the HM Land Registry, Durham Office .

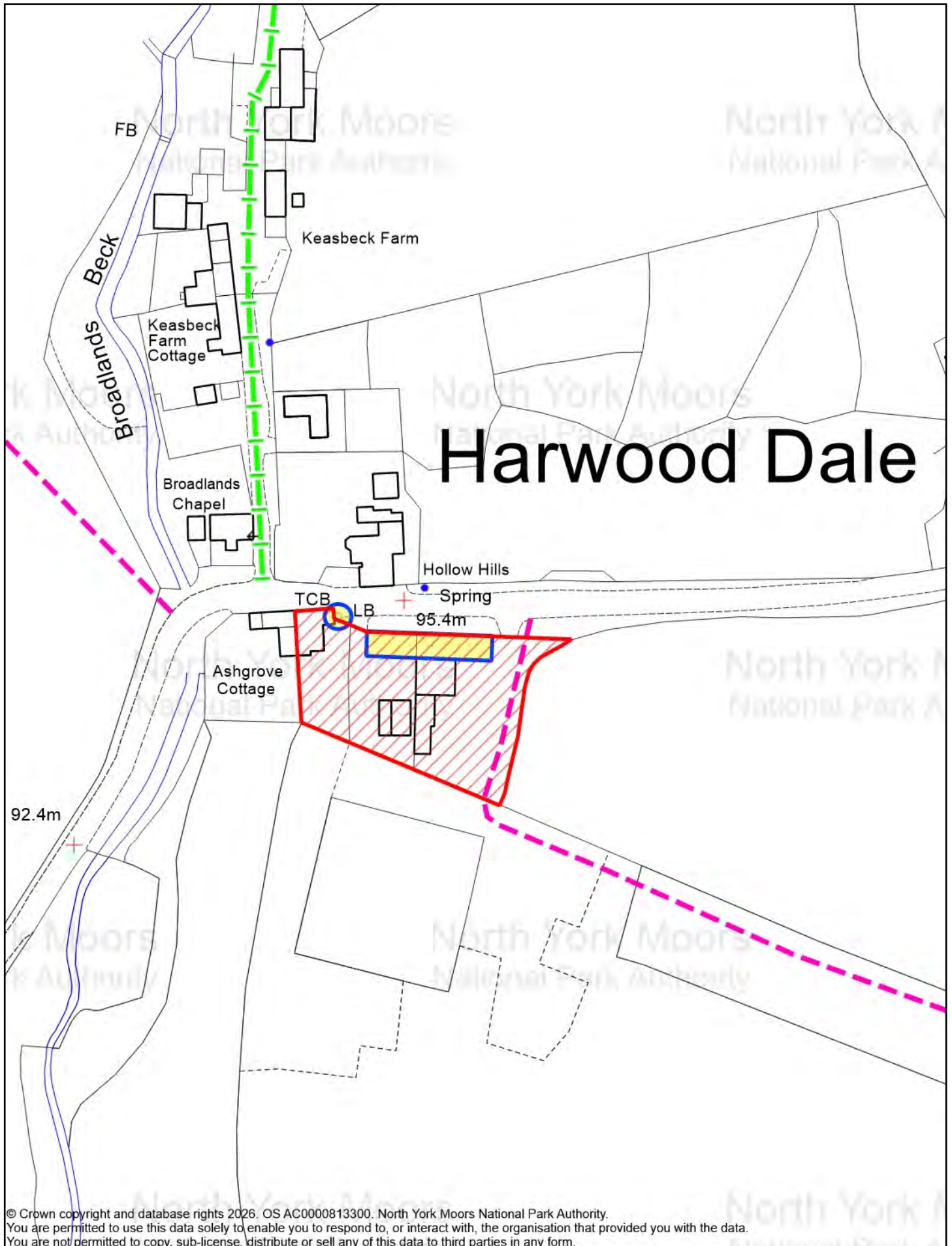
HM Land Registry Official copy of title plan

Title number **NYK312261**
Ordnance Survey map reference **SE9695NW**
Scale **1:2500**
Administrative area **North Yorkshire**



©Crown Copyright. Produced by HM Land Registry.
Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number AC0000851063.





Smithy

Listed on the National Heritage List for England. **Search over 400,000 listed places**

(<https://historicengland.org.uk/listing/the-list/>)

Official list entry

Heritage Category: **Listed Building**

Grade: **II**

List Entry Number: **1148209**

Date first listed: **26-Nov-1985**

List Entry Name: **Smithy**

Statutory Address 1: **SMITHY, MOOR END ROAD**

This List entry helps identify the building designated at this address for its special architectural or historic interest.

Unless the List entry states otherwise, it includes both the structure itself and any object or structure fixed to it (whether inside or outside) as well as any object or structure within the curtilage of the building.

For these purposes, to be included within the curtilage of the building, the object or structure must have formed part of the land since before 1st July 1948.

[Understanding list entries](https://historicengland.org.uk/listing/the-list/understanding-list-entries/) (<https://historicengland.org.uk/listing/the-list/understanding-list-entries/>)

[Corrections and minor amendments](#)

(<https://historicengland.org.uk/listing/the-list/minor-amendments/>)

Location

Statutory Address: **SMITHY, MOOR END ROAD**

The building or site itself may lie within the boundary of more than one authority.

District: **North Yorkshire (Unitary Authority)**

Parish: **Harwood Dale**

National Park: **North York Moors**

National Grid Reference: **SE9627895827**

Details

SE 99 NE

2/32

HARWOOD DALE

MOOR END ROAD

(south side)

Smithy

Smithy. Mid C19. Coursed, squared stone. Pantile roof. Brick stacks. 2-cell smithy and stable. Single storey. Boarded stable door to left, with smithy entrance and window to right. To rear, boarded door to stable with 12-pane sash to left. Plain lintels to all openings. Coped gable wall to right. One end, and one left of centre stack. To interior: equipment installed by the owner's grandfather still in use, including 2 furnaces, each with hand-operated bellows and 2 anvils and 2 water troughs.

Listing NGR: SE9627895827

Legacy

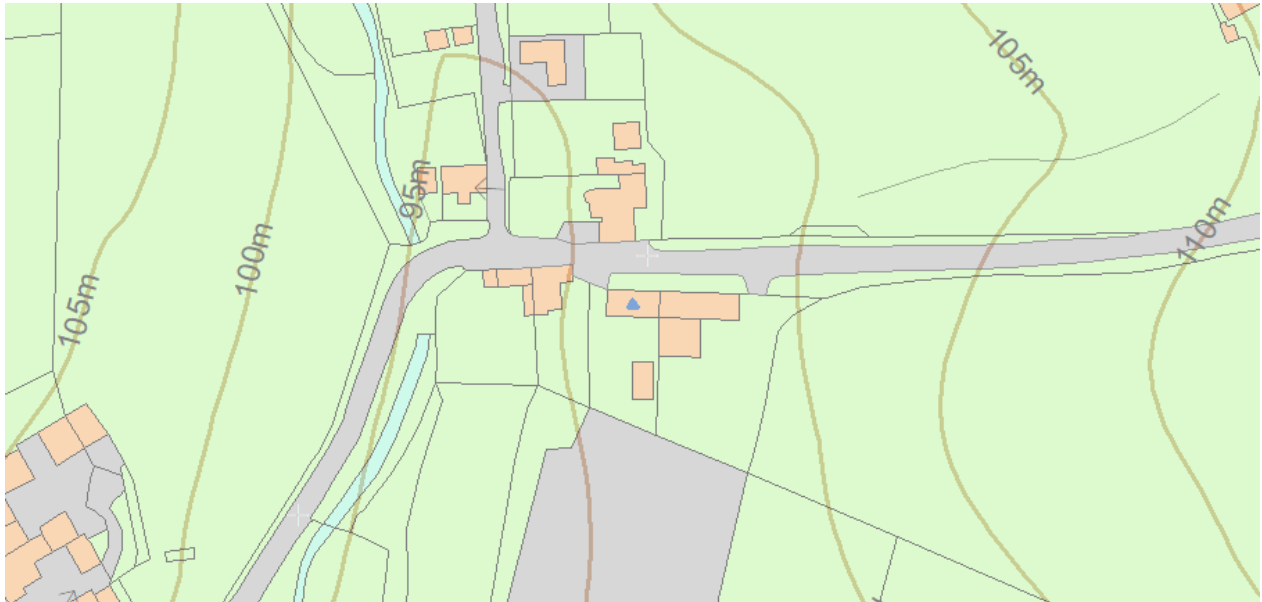
The contents of this record have been generated from a legacy data system.

Legacy System number: **326900**

Legacy System: **LBS**

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



Map

This map is for quick reference purposes only and may not be to scale. This copy shows the entry on 24-Jul-2026 at 12:04:32.

© Crown copyright [and database rights] 2026. OS AC0000815036. Use of this mapping is subject to [Terms and Conditions](#).

End of official list entry

All text content is available under the [Open Government Licence v3.0](#)

(<https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>), except where otherwise stated. Any supplied maps are © Crown Copyright [and database rights] 2026 OS AC0000815036 and may not be reproduced without permission.

North York Moors National Park Authority

LOCAL PLAN

July 2020



North York Moors
National Park

North York Moors National Park Authority

LOCAL PLAN

July 2020

Objectives - National Park Statutory Purposes and Duty:

1. Conserve and enhance the natural beauty, wildlife and cultural heritage of the North York Moors National Park.
2. Promote opportunities for the understanding and enjoyment of the special qualities of the National Park.
3. Whilst achieving the above seek to foster the economic and social well-being of local communities.

Introduction

- 3.1 This part of the Plan sets out our spatial strategy and some of the key 'strategic' policies the Authority will use to help direct and influence new development in the future. The term 'strategic' means that they are policies held to be particularly important in achieving the Authority's long term objectives.

Strategic Policy A - Achieving National Park Purposes and Sustainable Development

Within the North York Moors National Park a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes:

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Where there is an irreconcilable conflict between the statutory purposes the Sandford Principle will be applied and greater weight will be attached to the first purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park.

Sustainable development means development which:

- a) Is of a high quality design and scale which respects and reinforces the character of the local landscape and the built and historic environment;
- b) Supports the function and vitality of communities by providing appropriate and accessible development to help meet local need for housing or services, facilities, energy or employment opportunities;
- c) Protects or enhances natural capital and the ecosystem services they provide;
- d) Maintains and enhances geodiversity and biodiversity through the conservation and enhancement of habitats and species;

- e) Builds resilience to climate change through adaptation to and mitigation of its effects;
- f) Makes sustainable use of resources, including using previously developed land wherever possible; and
- g) Does not reduce the quality of soil, air and water in and around the National Park.

Explanation

- 3.2 The North York Moors is a nationally significant, special place and part of the cultural and natural heritage of the nation. As such, proposals for new development will need to be carefully located and designed so that they respect the 'statutory purposes' which underpin its status as a National Park. The Authority will continue to recognise that the evolution of the National Park needs to be sensitively managed, through a philosophy of 'careful planning'.
- 3.3 It is standard practice for development plans to contain a policy which sets out a presumption in favour of sustainable development as set out in National Policy (NPPF, paragraph 11). In terms of plan-making this presumption does not apply where policies in the NPPF protect areas of particular importance such as National Parks where there are strong reasons for restricting the scale of development. Scale is recognised at paragraph 172 of the NPPF which states that the scale and extent of development within designated areas should be limited. Therefore an important principle which runs through all the policies in this Plan is that development in the National Park should be small in scale in order to conserve and enhance the natural beauty and cultural heritage of the North York Moors. Further guidance on what is meant by 'small in scale' is explained in the supporting text to the relevant policies.
- 3.4 Strategic Policy A is intended to set out what the National Park Authority considers to be sustainable development in the National Park context and links a positive approach to new development with a need to ensure compatibility with National Park purposes. A positive approach to appropriate new development will therefore be taken and the Authority will always work with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the National Park.
- 3.5 As a general development principle, development in the National Park should avoid conflict with the two national park statutory purposes. In the event that a proposal for development would create a conflict between the two purposes the decision maker will adhere to the 'Sandford Principle' which requires that greater weight is attached to the conservation and enhancement of the National Park¹⁸.

¹⁸The National Parks and Access to the Countryside Act, 1949, Section 11A(2), as inserted by Section 62 of the 1995 Environment Act

Strategic Policy E - The Natural Environment

The quality and diversity of the natural environment of the North York Moors National Park will be conserved and enhanced.

Development which has an unacceptable impact on the natural environment, the wildlife it supports and the environmental benefits it provides will not be permitted.

All development will be expected to:

1. Ensure that natural capital is used in efficient and sustainable ways;
2. Demonstrate, where appropriate, how it makes a positive contribution to natural capital and its ability to provide ecosystem services.

Explanation

- 4.2 The intention of this policy (and the wider Plan) is to reinforce consideration of how new development can contribute to the first National Park statutory

purpose – to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park. It requires that development proposals should show how their function and design can maintain or enhance the existing stock of environmental resources or ‘natural capital’ and the benefits that flow from them. These benefits are often termed ‘ecosystem services’ and are generally grouped as:

- Provisioning services – the capacity of the area to provide crops for food and energy, rear livestock, produce timber, offer opportunities for rural and coastal industries, tourism etc;
- Regulating and maintaining services – the role the natural environment plays in issues such as climatic regulation, carbon storage, natural flood management, maintaining water quality, soil formation and composition and pollution;
- Cultural services – the physical, intellectual, spiritual and symbolic interactions of humans with ecosystems, land and seascapes, for example the experiences offered including tranquillity, dark night skies, a sense of place and history, and opportunities for recreation.

4.3 The moorland, farmland, woodland and coastal environments of the National Park provide many different ecosystem services. The Authority’s Management Plan identifies the ecosystem services that the National Park provides. The intention is that all development should consider how it can contribute to increasing the benefits that flow from ecosystem services. Where appropriate the Authority will therefore seek to secure additional environmental benefits in connection with new development.

Strategic Policy I - The Historic Environment

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, including:

1. Features that contribute to the wider historic landscape character of the North York Moors National Park such as the legacy of features associated with the area's industrial, farming, fishing and monastic past;
2. Archaeological sites and monuments, comprising both upstanding and below-ground assets, including Scheduled Monuments and regionally or locally important non-designated monuments such as the Neolithic barrows and Bronze Age cairns, tumuli and stone circles;
3. The vernacular building styles, materials and the form and layout of the historic built environment including Conservation Areas, Listed Buildings and regionally or locally important non-designated structures and buildings.

Applicants will be required to provide a Heritage Statement of sufficient detail to allow an informed assessment of the impact of the proposed development on the significance of the heritage asset(s).

Harm to an element which contributes to the significance of a designated heritage asset (or to non-designated archaeology of national importance) will require clear and convincing justification and will only be permitted where this is outweighed by the public benefits of the proposal. Substantial harm will only be permitted where it can be demonstrated that the proposal would bring substantial public benefits that outweigh the harm or there are other exceptional circumstances.

Where non-designated heritage assets are affected, a balanced judgement will be taken having regard to the scale of any harm or loss and the significance of the asset and other material considerations.

Explanation

- 4.65 Local heritage contributes to the identity of the area and strengthens connections between people and places. In order to maintain and strengthen the Authority's commitment to protecting and making sustainable use of the historic environment great weight will be placed on the need to protect and enhance the historic environment of the National Park.
- 4.66 Strategic Policy SPI seeks to protect the Park's most important historical components and encourage development that is consistent with maintaining the overall historic character of the National Park. The Authority will expect development proposals, where relevant, to consider the impact of the proposal on the historic character of the area, rather than focussing solely upon individual assets, recognising that maintaining local distinctiveness is an important element in managing the built environment. This policy also sets out the approach the Authority will take to both designated and non-designated heritage assets as individually and collectively heritage assets contribute to the cultural and historical character of the National Park.

Designated Heritage Assets

- 4.67 Heritage assets are sometimes recognised through formal designation such as Registered Historic Parks and Gardens, Scheduled Monuments, Listed Buildings or Conservation Areas. These designated heritage assets benefit from statutory protection. Their significance can be affected not only by development which has a direct effect upon it, such as physical changes to a Listed Building, but also by development which affects its setting.
- 4.68 Great weight will be given to the conservation of the asset. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm.
- 4.69 Proposals that would lead to substantial harm or total loss of significance of a designated heritage asset (or to an asset of equivalent significance) will be required to present clear and compelling justification for accepting any loss or harm, in line with the requirements of the National Planning Policy Framework as set out in Paragraph 195.
- 4.70 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use (as described below). If there are no public benefits which arise from the proposal to off-set the harm caused, the Authority will refuse consent.

Non-designated Heritage Assets

- 4.71 Designated heritage assets only make up a fraction of all heritage assets in the National Park. There are a large number of non-designated heritage assets of architectural, historic and archaeological significance that contribute to the special qualities of the National Park and these are particularly vulnerable to inappropriate change or loss due to their lack of specific protection.

- 4.72 It is likely that most non-designated heritage assets will be identified through the planning process or through pre-application enquiries and it is important for applications to consider the heritage value of the asset from the outset to help inform proposals.
- 4.73 This policy seeks to ensure that non-designated heritage assets (including designed landscapes) are not overlooked in planning decisions. In assessing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be made having regard to the scale of any harm or loss and the significance of the asset, although the expectation is still that development proposals will take opportunities to conserve these wherever possible. It should be noted that some non-designated archaeology remains could be of national importance. In such cases, proposals will be considered against the policies for designated heritage assets.

Understanding Significance

- 4.74 Significance is the value of a heritage asset to this and future generations because of its heritage interest (archaeological, architectural, artistic or historic). Significance can be affected not only by development which has a direct effect upon it, such as physical changes to a Listed Building, but also by development which affects its setting.
- 4.75 Understanding the significance of an asset is crucial in order to make informed decisions. All proposals affecting a heritage asset must be accompanied by a 'Heritage Statement' which identifies its significance. If there is insufficient information to enable the Authority to assess the impact of the proposal on the significance of the asset or insufficient justification to outweigh any harm to the asset the Authority will refuse consent.
- 4.76 Historic England provides useful advice and guidance on the assessment of significance and in particular "Conservation Principles, Policies and Guidance" (April 2008). Information on many heritage assets can also be found on the Authority's Historic Environment Record.

Optimum Viable Use

- 4.77 Sustaining heritage assets in the long term often requires investment and putting heritage assets to a viable use is likely to enable the maintenance necessary for their long-term conservation. Certain heritage assets may have limited or no scope for new uses or may be so sensitive to change that alterations to accommodate a viable use would lead to an unacceptable level of harm and loss of significance.
- 4.78 It is important that any use is viable, not just for the owner, but also the future conservation of the asset. The optimum viable use may not necessarily be the most profitable one, but is instead the use which causes least harm to the significance of the heritage asset(s).

The Historic Environment Record

- 4.79 Information on identified heritage assets is available on the Authority's Historic Environment Record (HER). However, this is not a definitive record of all heritage

assets in the National Park. Many assets are yet to be identified or properly understood. Applicants should therefore ensure that they consider the heritage implications of all proposals regardless of whether a heritage asset has been previously identified, as new assets may be identified during the heritage assessment phase.

Enabling Development

- 4.80 Historic England has produced very thorough guidance on the sorts of situations in which it may, or may not be appropriate to approve 'enabling development'. The Policy outlined by Historic England in its publication "Enabling Development and the Conservation of Significant Places" should be used to assess whether enabling development is justified. Early engagement with the Authority is recommended to help develop proposals.

Policy ENV11 – Historic Settlements and Built Heritage

Development affecting the built heritage of the North York Moors should reinforce its distinctive historic character by fostering a positive and sympathetic relationship with traditional local architecture, materials and construction. High standards of design will be promoted to conserve and enhance the built heritage, settlement layouts and distinctive historic, cultural and architectural features. Development proposals will only be permitted where they:

1. 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;
2. Conserve or enhance the special character and appearance of settlements including buildings, open spaces, trees and other important features that contribute to visual, historical or architectural character;
3. Reinforce the distinctive qualities of settlements through the consideration of scale, height, massing, alignment; design detailing, materials and finishes;
4. Respect the integrity of the form of historic settlements including boundary and street patterns and spaces between buildings;
5. In the case of new uses, ensure the new use represents the optimum viable use of the asset which is compatible with its conservation;
6. In the case of adapting assets for climate change mitigation, the proposal is based on a proper understanding of the asset and its material properties and performance, and of the applicability and effectiveness of the proposal. Development should not harm the heritage value of any assets affected.

When a proposal affecting a heritage asset is acceptable in principle, the Authority will seek the preservation of historic fabric in situ.

When retention of the feature is not justified or the form and appreciation of a heritage asset is compromised through the proposal, the applicant will be required to undertake an appropriate programme of historic building recording (HBR) and analysis secured through an approved Written Scheme of Investigation (WSI).

Explanation

- 4.90 This policy seeks to resist development that results in loss of or harm to the significance of designated and other heritage assets of national importance. In order to accept any loss or harm proposals will be required to present clear and compelling justification for the development, including the public benefits which will arise from the proposal.

- 4.91 This includes assets which are recognised through formal designation such as Listed Buildings and Conservation Areas which benefit from statutory protection, but also non-designated assets of local or regional significance that contribute to the special qualities of the National Park. Non-designated heritage assets are particularly vulnerable to inappropriate change or loss due to their lack of specific protection and therefore this policy seeks to ensure that these assets are not overlooked in planning decisions.
- 4.92 Responses to climate change may require adaptations to historic buildings. Whilst these changes may help to ensure the continued preservation of the building, it is important to ensure that they are not ineffective, inappropriate or damaging. Measures to mitigate climate change, including the application of renewable energy technologies to historic buildings or buildings within Conservation Areas should not harm the heritage values of the asset. Historic England publishes an extensive range of expert advice and guidance on how to improve the energy efficiency of heritage assets in ways which are sympathetic to its historic character.
- 4.93 A more flexible approach is adopted for non-designated assets, although the expectation is that development proposals will take opportunities to conserve and enhance significant features wherever possible.
- 4.94 Work carried out by statutory undertakers or by the public as 'permitted development' can erode historic features if not properly considered at the outset. All statutory undertakers should have regard to National Park purposes when exercising or performing any of its functions within a National Park³⁰. Defra's guidance³¹ outlines its expectations of relevant authorities and their ability to demonstrate that they have fulfilled their duties. Small scale alterations such as highway kerbing or replacement of traditional cobbled gulleys or historic trods with modern alternatives can have a harmful impact on the character of the historic environment.

Conservation Areas

- 4.95 Whilst it is the quality and interest of an area as a whole which is recognised through designation, it is often the cumulative impact of small changes over time which erode the special qualities and significance of a place. Most of the National Park's Conservation Areas are covered by Article 4 Directions to help control potentially damaging alterations by removing permitted development rights.
- 4.96 The character of a Conservation Area is not only formed by buildings and spaces, but also by the land uses. It is important that proposed changes of use identify opportunities for enhancement as well as ensuring the special qualities and significance of a place is not harmed.

Listed Buildings

- 4.97 Listed Buildings are irreplaceable heritage assets which are recognised as being of special architectural or historic interest in the national context. They are identified on the National Heritage List for England held currently by the Department for Culture, Media and Sport. Protection extends to the whole building, inside and outside, its curtilage and certain structures within its domain. The majority of works to Listed Buildings require listed building consent

³⁰Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (National Parks) and Section 62 of the Environment Act 1995 ³¹Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads, 2005

(in addition to any other consent required through planning legislation), including internal features and fittings, attachments and any decorative schemes of special significance.

Historic Building Recording

- 4.98 Retention of original features should always be the preferred approach to conserving heritage assets. However, where it can be demonstrated that retention is not justified, the Authority will seek appropriate recording in order to advance understanding of the significance of any asset to be lost, in accordance with paragraph 199 of the NPPF. When this is the case, the Authority will require applicants to undertake an appropriate programme of historic building recording (HBR). Further information in recording and WSI's can be found in the Glossary.
- 4.99 Often the requirement for such recording will form a condition attached to the decision notice but in some circumstances the Authority may require recording prior to determination. This will be limited to certain circumstances where a proposal may relate to a building which has a complex or unknown history. In these instances it can be difficult to fully understand the impact of a proposed development on the significance of the asset as its significance may be unknown or not fully understood. This will enable the Authority to secure a proper understanding of a building and its significance so that an informed decision on the impact of the proposal on the significance of the asset can be made.
- 4.100 The required form and level of recording will be set out in a written scheme of investigation (WSI) prepared by or agreed by the Authority. The level of recording will be defined within the WSI and in line with Historic England guidance - "Understanding Historic Buildings: A Guide to Good Recording Practice", which sets out the process of investigating and recording historic buildings.
- 4.101 The scheme of HBR must provide for the deposition of the record created by any investigation or recording in a publicly accessible institution such as a Record Office or accredited museum. A copy of the report must also be provided to the HER and included in the creation of an OASIS record. It must also provide for the publication and dissemination of the information gathered through the Written Scheme of Investigation.
- 4.102 Further advice on this, including when recording may be required, can be provided through the Authority's pre-application service.

To follow