

North York Moors National Park Authority Planning Committee

13 December 2012

Enforcement issues comprising of an Unauthorised Agricultural Building; an Unauthorised Plateau Including Embankment; an Unauthorised Reservoir; an Unauthorised Farm Track; 2 No. Unauthorised Duck Ponds; and an Unauthorised Water Storage Pond at Grange Farm, Staintondale

1. Purpose of the Report

- 1.1 To consider an appropriate course of action in relation to the unauthorised operational development at Grange Farm, Staintondale.

2. Background

- 2.1 Grange Farm is a long established organic dairy farm located off the Staintondale to Ravenscar Road within the loose knit community of Staintondale. The farm comprises three dwellings (the third in the group is in separate ownership) and a number of substantial modern agricultural buildings, all sited in one group. The farm is situated within a dip in the landscape with mature trees on the rising land to the north east. Though in a dip, the site is visually prominent from rising land to the north, south west and from Public Rights of Way (particularly the old railway line to the east) which has resulted in recent unauthorised development being highly visible from the surrounding higher land and road into Staintondale from the main A171.
- 2.2 Members will recall from the Planning Committee held in September 2012 that the issues raised were:
- Unauthorised agricultural building
 - Unauthorised Plateau including the embankment
 - Unauthorised reservoir
 - Unauthorised farm track
 - Unauthorised duck ponds; and
 - Unauthorised water storage pond
- 2.3 Officers updated members at that meeting with regard to the revised position of the plateau (including the embankment) and for the reasons given no further action was recommended. Officer's also advised of Mr and Mrs Else's agreement to fill in the reservoir and restore the Section 3 Moorland. By the end of the meeting the Committee was only concerned about the unauthorised agricultural building, having accepted the updated Officer's recommendations in relation to the 5 other matters. Since the meeting no relevant factors have changed in relation to those 5 other matters.
- 2.4 Members discussed the matter of the unauthorised agricultural building in some depth. The discussions raised two questions which Members asked for further independent advice on:

- Are the buildings as approved acceptable in terms of animal welfare issues.
 - Is the organic dairy farm viable?
- 2.5 The Authority contracted Acorus Rural Property Services to help seek responses to these questions. In their report received by the Authority on 21 November 2012, Acorus has advised that although the originally approved buildings were 4 no. (as per the application made) they have assumed that the building as a whole would have been built as a single unit. The approved building measures 44m wide, 42m long and 6.0m to ridge (4.5m to eaves); and would be constructed of block work walling 2.1m high and timber boarding 2.4m high above. For the purposes of the calculations a stocking rate of 150 adult cows with an average live weight of 600kg is assumed which results in a generous floor area/head of 12.3sqm. (Using this baseline data and the conclusions reached in the Acorus report, Officers conclude) the following in relation to ventilation calculations:
- The building with two continuous open ridges and fresh air inlet through the timber spaced boarding at both side walls. In this configuration the building does not provide sufficient ventilation inlet.
 - The building as above but with additional ventilation via a slotted roof. The minimum ventilation requirements are just about satisfied.
 - The building with additional ventilation slots but with the proposed dairy building attached to the eastern wall. With the east side wall inlet being eliminated due to the proximity of the proposed dairy building, the building will not be capable of providing a naturally ventilated environment for the housed livestock.
- 2.6 Acorus assessed the building **as built** with the assumption that there is no side wall inlet and the building is fitted with a continuous open ridge of 150mm. (Using this baseline data and the conclusions reached in the Acorus report, Officers conclude) that this building will be adequately ventilated when fully stocked.
- 2.7 Officers also conclude, based upon the Acorus report, that **the approved** farm buildings with their suggested alterations will satisfy the minimum ventilation requirements.
- 2.8 With regard to the second question, Officers conclude, based upon the Acorus report, that based upon the stated intentions of the farmer to operate a large scale, organic farming system based on 380-390 dairy cows; a business of this size and character should be viable in the long term. However, a full financial assessment has not been completed.
3. **The apparent breach of planning control**
- 3.1 To have jurisdiction to issue an enforcement notice in this case, it must appear to the Authority that there has been a breach of planning control.
- 3.2 The apparent breaches are without planning permission the six items identified in paragraph 2.2 above.
4. **Expediency and reasons for seeking to enforce**
- 4.1 It appears to the Authority that the breaches of control have occurred within the relevant limitation period. The developments are therefore not immune from planning control.

5. **Policy**

- 5.1 Core Policy A of the NYM Local Development Framework is concerned with delivering National Park purposes. This is achieved, in part, by limiting the scale of development and level of activity to that which would not have an unacceptable impact on the wider landscape or the quiet enjoyment peace and tranquillity of the Park, nor detract from the quality of life of local residents or the experience of visitors
- 5.2 Development Policy 12 of the NYM Local Development Framework seeks to permit proposals for new agricultural buildings, tracks and structures or extensions to existing buildings where there is a functional need for the building, the building is designed for the purposes of agriculture, the site is related physically and functionally to existing buildings associated with the business unless there are exceptional circumstances relating to agricultural necessity for a more isolated location, and a landscaping scheme which reduces the visual impact of the proposal on the wider landscape is submitted as part of the proposal.

6. **Unauthorised Agricultural Building**

- 6.1 The evaluation of the approved building has been subject to three ventilation calculations and with some modification the building could just about satisfy the minimum ventilation requirements.
- 6.2 Officer's are of the opinion that based on the calculations the approved building can be constructed to satisfy the ventilation requirements for the dairy herd. However, the recently refused dairy building that is to be sited alongside the eastern wall of the current unauthorised agricultural building is currently with the Planning Inspectorate and at the time of writing this report, the Authority has not received the Inspectors decision.

7. **Unauthorised Plateau Including Embankment**

- 7.1 As previously reported for the reasons given in the members update sheet for the September 2012 meeting, the recommendation is therefore amended to that of no further action with regard to the plateau and embankment.

8. **Unauthorised Reservoir**

- 8.1 As reported in the Member's update sheet for the September 2012 meeting, Mr & Mrs Else have agreed that the reservoir will be filled in and the area of Section 3 Moorland to be restored.

9. **Unauthorised Farm Track**

- 9.1 As reported in the September 2012 meeting, officers are of the opinion that the road in its current form and location is not considered to cause harm to the character and appearance of the locality. Therefore, should an application be forthcoming officer's are minded to support such an application.

10. **Unauthorised 2 No. Duck Ponds**

- 10.1 As reported in the September 2012 meeting, officers considered that should the current embankment and plateau be removed the lowering of the duck ponds to the original ground level would ensure that their appearance within the landscape would be of minimal impact and should an application be forthcoming officer's would support such an application.

11. Unauthorised Water Storage Pond

- 11.1 As reported in the September 2012 meeting, officers considered that should the problem be rectified the land will in time re-colonise. However, should the problem of the broken clay pipe not be resolved then the harm caused by this unfortunate situation is not considered such to cause harm to the character or appearance of the landscape due to its irregular appearance within the agricultural holding..

12. Human Rights Considerations

- 12.1 It is considered that any decision to take enforcement action is likely to interfere with the owner's Article 8 and Article 1, First Protocol rights enshrined in the ECHR. However the Authority considers that interference to be necessary and proportionate in the pursuance of a legitimate aim.

13. Remedial actions to be required

- 13.1 Infill the reservoir using the same material removed during excavation and implement a restorative management plan.
- 13.2 Should a planning application or an application for a certificate of lawful development not be forthcoming for the unauthorised farm track, on balance officers are satisfied that it does not cause any material harm to the character of the area.
- 13.3 Whilst the duck ponds are not authorised officers are satisfied on balance that they do not cause any material harm to the landscape
- 13.4 Although the water storage pond is unauthorised officers are satisfied that on balance it does not cause any material harm to the landscape
- 13.5 The requirements of the notice should be complied with within six months of the notice taking effect. That is considered a reasonable time for compliance

14. Conclusions

- 14.1 In the interests of the proper planning of the area, enforcement action should be taken as set out above.

15. Financial and Staffing Implications

- 15.1 These will depend on the response of the landowner and/or occupier of the site to the proposed action, and cannot easily be anticipated at this stage. If an appeal is brought against an enforcement notice that is likely to involve significant amounts of staff time, particularly if it is heard by way of a public inquiry at which officers will need to attend to give evidence and undergo cross-examination. Further resourcing implications will depend upon whether the notice is upheld, and the landowner's willingness to comply with it.

16. Legal Implications

- 16.1 These will depend on the response of the landowner and/or occupier of the site to the proposed action. If an appeal is made, particularly if it raises evidential issues, this is likely to be tested on oath at a public inquiry, which will require legal input. Achieving compliance with the requirements of any enforcement notice that comes into effect is also likely to require the input of the Authority's lawyers.

17. Recommendation

17.1 That Enforcement action, and any other legal action necessary, be authorised to secure

- the infilling of the reservoir and implementing a restorative management plan; and
- the removal from the land of all construction materials and rubble arising from the above with a time for compliance of six months;

and to authorise no further enforcement action be taken in respect of the

- plateau including the embankment
- farm track;
- duck ponds; and
- water storage pond;

and to authorise the reporting of the matter of the unauthorised agricultural building as a separate matter after the Planning Inspectors decision on the dairy building has been published.

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