

North York Moors National Park Authority Planning Committee

21 March 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

1.0 Purpose of the Report

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

2.0 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 on 13 December 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 current position of the site 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.
- 2.4 The land owner subsequently submitted a retrospective planning application for the agricultural building under decision number NYM/2012/818/FL. Members refused to grant permission at the Planning Committee Meeting of 21 February 2013 for the following reason:

“The building as constructed, by reason of its bulk, size and prominent location has an unacceptable adverse impact on the landscape character and special qualities of this part of the National Park, contrary to Development Policies 3 and 12 and Core Policy G of the North York Moors Local Development Framework.”

2.5 It is possible that the owner may wish to appeal against this refusal. It is good practice for any planning refusal appeal to be heard by the Planning Inspectorate at the same time as any related Enforcement Notice appeal. Officers consider that the matter of enforcement should therefore be brought before Members at this time. This report has been written therefore without the knowledge of the outcome to the dairy building appeal. Members will be updated on that matter when the Authority receives the Planning Inspectorates decision.

2.6 The other matters in the list at paragraph 2.2 above have all now been resolved by Members.

3.0 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 breach is without planning permission the erection of an agricultural building.

4.0 Expediency and reasons for seeking to Enforce

4.1 It appears to the Authority that the breach of control has occurred within the relevant limitation period. The development is therefore not immune from planning control.

Policy

4.2 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

4.3 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.

4.4 Part 5 of the Design Guide, which sets out the considerations that should be taken into account when designing and siting new agricultural buildings.

Unauthorised Agricultural Building

Visual Impact

4.5 The building is designed for the purposes of agriculture. In landscape terms however, the building, which is extremely large (floor space approximately 1,606 sqm) would, due to both its size and bulk and location at the end of the existing range of buildings, and on man-made plateau, be unacceptably prominent in the immediate and wider landscape.

Design, Materials and Scale

- 4.6 The building is of standard modern agricultural design. Part 5 of the Design Guide acknowledges that modern farm buildings tend to be large single span structures with shallow pitched roofs based around a portal frame construction, allowing flexibility for large numbers of livestock (particularly in winter) to be housed under one roof at a cost-effective price. However, as a result, modern buildings are at risk of being out of scale with smaller, more traditional buildings.
- 4.7 Accordingly, it advises that very large buildings should not be located close to smaller buildings as they are likely to appear out of scale and therefore consideration should be given to providing new accommodation in two or more smaller buildings. Further, the guide suggests that multi-span buildings should be used rather than a single span structure in order to reduce building height and create a more varied and interesting roof line.
- 4.8 The building has now been clad with timber and the elevations stained dark green. However, this action along with the installation of 3 rows of 19 rooflights exacerbates the buildings scale and the dark green colour of the materials draws attention to its physical presence. Therefore it is considered that the building in its present form, size, scale and bulk causes substantial visual harm to the local landscape.

Landscaping

- 4.9 A significant amount of tree planting has been undertaken around the site, on the banks of the built up land. However, due to the buildings size, scale and bulk the landscaping is considered insufficient to reduce the buildings visual impact to an acceptable level in the short to medium term. Furthermore, good planning practice suggests that the building should be well designed in the first instance and landscaping should only be used to complement the building and not disguise its design failings.

Animal Welfare

- 4.10 Whilst the land owner considers that the building needed to be constructed as it has been for animal welfare reasons, the evaluation of the approved buildings have been subject to three ventilation calculations and with some modification of the buildings, could just about satisfy the minimum ventilation requirements should a building be erected to the eastern elevation.
- 4.5 Officer's are of the opinion that based on the calculations the approved buildings can be constructed so that they would satisfy the ventilation requirements for the dairy herd or; the existing structure modified to such an extent that it would replicate the approved building in height to eaves (4 metres) and ridge (6 metres); and double twin pitch roof layout.
- 4.6 With regard to the recently refused dairy building sited to the south east corner of and to project forward of the agricultural building, the subject of this report, this building would have little impact upon the ventilation requirements of the agricultural building due to its proposed location. However, this dairy building is still subject to the outcome of an appeal and the Inspectors decision on this matter would be a material consideration should it be received before Members make a decision on this matter.

5.0 Human Rights Considerations

- 5.1 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.

6.0 Remedial actions to be required

- Modify the unauthorised building to accord with the dimensions, design and colouration of the buildings approved under the planning permissions NYM/2010/0167/FL, NYM/2006/0444/FL, NYM/2006/0940/FL and NYM/2006/0939/FL; and remove all waste and arisings create by the modifications from the land; **OR**
- Demolish the unauthorised agricultural building in its entirety, removing all waste and arisings create by the demolition from the land.
- The time frame for completing the above steps is six (6) months from the date of the enforcement notice coming into effect.

7.0 Conclusions

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

8.0 Financial and Staffing Implications

8.1 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.

9.0 Legal Implications

9.1 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.

10.0 Recommendation

10.1 That Enforcement action, and any other legal action necessary, be authorised to secure the removal or modification of the existing unauthorised agricultural building by:

- Modify the unauthorised building to accord with the planning permissions (NYM etc); or
- Demolish the unauthorised agricultural building in its entirety removing all waste and arisings from the demolition from the land.
- The time frame for completing the above steps is six (6) months from the date of the enforcement notice coming into effect.

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