

North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: Ms Frances Lockey

Against: Refusal of planning permission for erection of timber clad cabin for use as holiday accommodation (retrospective)

Location: Suffield Cottage, Suffield, Scarborough YO13 0BJ

Statement by Local Planning Authority For Written Representations Appeal

Contents

- 1.0 Introduction
- 2.0 Appeal Site and the Surrounding Area
- 3.0 Relevant Site History
- 4.0 Proposed Development and the Decision
- 5.0 Planning Policy and Guidance
- 6.0 Local Planning Authority's Case
- 7.0 Comments on Grounds of Appeal
- 8.0 Conclusion

Appendices

- A** NYM/2021/0645/CU - Copy of the decision notice, approved plans and delegated report
- B** NYM/2022/0115 - Copy of the decision notice, approved plans and delegated report
- C** ENQ18818 – Copy of the Authority's pre-application advice
- D** ENQ18987 - Copy of the Authority's pre-application advice
- E** Copy of NYMLP Policy UE2 (Camping, Glamping, Caravans and Cabins)
- F** Copies of NYMLP Policy CO17 (Householder Development) and Policy CO20 (Equestrian Development for Private Use)
- G** List of suggested conditions

1.0 Introduction

This statement refers to the refusal of planning permission for the erection of a timber clad cabin for use as holiday accommodation (retrospective) at Suffield Cottage, Suffield, Scarborough YO13 0BJ by the North York Moors National Park Authority (NPA) as the Local Planning Authority (LPA). The decision notice was dated 3 July 2023 and a copy was included with the NPA's appeal questionnaire.

2.0 Appeal Site and the Surrounding Area

Suffield Cottage is a semi-detached, stone-built property which lies on the north side of the main road through the dispersed hamlet of Suffield. The property has been extended and altered in the past and is served by a private drive which sweeps round the side of the dwelling to a parking area at the rear. The garden extends some 15 metres to the side of the property and 15 metres to the rear to give a sizeable curtilage. The appellant also owns the land immediately to the north of the existing curtilage which extends a further 50 metres.

3.0 Relevant Site History

Planning permission was granted in October 2021(NYM/2021/0645/CU) for an extension of the domestic curtilage to Suffield Cottage some 10 metres to the north across the full width of the existing garden. This permission has been implemented. A copy of this decision notice and the approved plans, along with the delegated report is attached at Appendix A.

In April 2022 planning permission was granted (NYM/2022/0115) for the construction of an L-shaped timber clad garage and stable building. The garage element would have been sited within the extended domestic curtilage approved under NYM/2021/0645/CU and be served by the existing driveway whereas the attached stable and hay/feed store would have been located within the adjoining paddock to the north. A copy of this decision notice and the approved plans, along with the delegated report is attached at Appendix B.

Following the grant of planning permission for the garage and stable building the appellant sought the Authority's advice in May 2022 (ENQ18818) as to whether the change of use of the garage into annexe and/or holiday letting accommodation would be supported. The appellant was advised that as the garage had not at that time been built, it could not be considered as a change of use but instead the construction of a detached holiday cottage/annexe within the garden of Suffield Cottage. Given the strict policies regarding new housing development in the open countryside, the appellant was advised that it was highly unlikely that the Authority would look favourably on a proposal to build a holiday cottage/annexe within the domestic curtilage of Suffield Cottage. A copy of this letter of advice is attached at Appendix C.

In August 2022 the appellant again approached the Authority (ENQ18987) advising that the garage had been constructed (but not the stable) and that they now wished to convert it into either annexe accommodation and possible occasional use as holiday letting accommodation. The appellant was advised that by constructing the garage with the intention of immediately seeking planning permission for its change of use they were trying

to circumnavigate the restrictive planning policies for development in the open countryside and that the proposal was tantamount to the construction of a detached holiday cottage/residential annexe which, as previously advised, would not be supported. The appellant was also advised that Policy UE4, which deals with proposals for holiday accommodation within a residential curtilage, is only supportive where it makes use of an existing building which is of architectural or historic interest and makes a positive contribution to the character of the surrounding area. As a new build timber clad garage, the building was considered not to be of policy compliant architectural merit or historic interest, and its contribution to the character of the surrounding landscape was considered to be neutral. A copy of this letter of advice is attached at Appendix D.

The appellant was subsequently advised that as the original planning permission (NYM/2022/0115) for the garage and stable building did not include a condition restricting the use of the garage to the parking of vehicles or storage purposes, then provided it was built in accordance with the approved plans, it could be used for overflow living accommodation incidental to the main dwelling as 'permitted development' but that this did not allow its use as a separate unit of accommodation such as a holiday cottage. However, the garage had not been built in accordance with the plans as originally approved and as such the structure was unauthorised and the appellant was advised that full planning permission for the erection of timber clad cabin for use as holiday accommodation was required.

4.0 Proposed Development and the Decision

The application to which this appeal relates was received by the NPA on 21 April 2023 and was validated on 8 May 2023. The development description was given as 'construction of detached building for use as holiday cottage/residential annexe (retrospective)' but was amended at the request of the appellant to 'erection of timber clad cabin for use as holiday accommodation (retrospective)'.

The proposal as determined by the NPA sought retrospective permission for the construction of a timber cabin for holiday letting purposes within the domestic curtilage of Suffield Cottage. The cabin measured 9 metres by 4.7 metres with an eaves and ridge height of 2.4 metres and 3.4 metres respectively, with a small lean-to outdoor bathroom extension to the north elevation (measuring 1.75 metres by 1.75 metres), clad with horizontal timber boarding under a dark grey profile sheeted roof.

The application was supported by a non-mains drainage assessment form.

The Parish Council objected to the retrospective use of the building as a holiday let and the intensification of use and increased noise and traffic. No objections to the application were received from the Highway Authority, Environmental Health or the Environment Agency. A copy of these responses was included with NPA questionnaire.

No letters were received from third parties in response to the publicity of the application.

The application as amended was determined under the NPAs scheme of delegation and the refusal notice was issued on 3 July 2023 with the following reasons for refusal:

- 1. The proposal would introduce a level and form of commercial tourist activity which would be inappropriate within the domestic curtilage of an existing private dwelling, and owing to its siting along the shared boundary, would give rise to an intensification of activity on the site likely to cause additional noise and disturbance to the occupiers of the neighbouring property than would be generated from private domestic use, contrary to North York Moors Local Plan Policy UE4 (New Holiday Accommodation Within Residential Curtilages) which only permits new holiday accommodation within residential curtilages where there would be no harm in terms of noise and activity on the amenity of the neighbourhood. Furthermore, proposal does not provide for a small camping or glamping unit as required by Policy UE4 and instead relates to the retention of a sizeable timber cabin for holiday letting purposes, which is not of a character or appearance worthy of retention sufficient to override detrimental impact on neighbouring residential amenity.*
- 2. The proposal would utilise the location of the previously approved garage and stable building, potentially leading to pressure for additional structures for domestic garaging and storage within the curtilage, which due to the open nature of the site would be visually intrusive, detrimental to the character of the area and contrary to Policy CO17 (Householder Development) of the North York Moors Local Plan which requires that the change of use of existing outbuildings should not lead to future proposals for additional outbuildings.*

5.0 Planning Policy and Guidance

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

At the time of decision, the Development Plan for the area formally consisted of the **North York Moors Local Plan** which was adopted by the NPA on 27 July 2020. The Development Plan also consists of the Whitby Business Park Area Action Plan (2014), the Helmsley Local Plan (2015) and the Minerals and Waste Joint Plan (2022) although these do not contain policies relevant to this appeal. The most relevant policies in the determination of this appeal are considered to be:

- Strategic Policy C (Quality and Design of Development)
- UE4 (New Holiday Accommodation Within Residential Curtilages)

Strategic Policy C seeks to maintain and enhance the distinctive character of the National Park with a set of detailed criteria to be complied with. It requires proposals to be of a high-quality design that will make a positive contribution to the local environment and to incorporate good quality construction materials and design details that reflect and complement the architectural character and form of the original building and/or that of the local vernacular.

Policy UE4 only supports the development of new holiday accommodation within a residential curtilage where it makes use of an existing building which is of architectural or historic interest and makes a positive contribution to the character of the surrounding area; it would not detract from the character or appearance of the locality; it is of an appropriate scale; and there is no unacceptable harm in terms of noise and activity on the amenity of the neighbourhood. The policy also states that proposals for new camping and glamping units within a residential curtilage will only be permitted where the size and layout of the residential curtilage is such that a proposal can be accommodated in a way that does not detract from the character and appearance of the locality and does not cause harm to local amenity. For camping and glamping units, the Local Plan refers to units under 25 sq.m, not connected to the foul drainage system.

The appellant in their statement refers to **Policy UE2** (Camping, Glamping, Caravans and Cabins) as being relevant however this deals with proposals out with domestic curtilages, such as on a farm or at a public house and is not applicable in this case where the proposal relates to the provision of holiday accommodation within the domestic curtilage. A copy of this policy is attached at Appendix E for reference.

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. **The National Planning Policy Framework (NPPF)** does not change the statutory status of the Development Plan as the starting point for decision making but is an important material consideration in the determination of an application. Development that accords with an up-to-date Local Plan should be approved, and conversely development that conflicts should be refused unless other material considerations indicate otherwise. The North York Moors Local Plan (NYMLP) was adopted on 27 July 2020 under the provisions of the Town and Country Planning (Local Planning) (England) Regulations 2012 and does not conflict with national policies in the NPPF. It is therefore up-to-date and should be the starting point for any planning decision making in the North York Moors National Park.

The Government's commitment to the protection of National Parks is clearly set out in the NPPF (December 2023). **Paragraph 182** says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection.

Furthermore, whilst at the heart of the NPPF is a presumption in favour of sustainable development, **Paragraph 182** also confirms that the scale and extent of development within these designated areas should be limited. It is clear therefore that the NPPF expects a different approach to be taken in National Parks both to plan making and decision taking compared with other areas outside of designated National Parks.

The **North York Moors National Park** was formally designated in 1952 under the National Parks and Access to the Countryside Act 1949. The two key purposes are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks and to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public. When it appears that there is conflict between these purposes the

'Sandford principle' confirms that greater weight should be given to the first purpose, the conservation of the landscape (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: 'National Parks' DoE, 11 September 1996.

6.0 Local Planning Authority's Case

The original planning permission (NYM/2022/0115) granted in April 2022 for the construction of a garage and stable building partly within the domestic curtilage of Suffield Cottage and partly without was assessed against Policy CO17 (Householder Development) and Policy CO20 (Equestrian Development for Private Use) of the NYMLP; copies of these policies are attached at Appendix F for reference. In appraising that application the NPA considered that the outbuilding would be subservient to the main dwelling and would serve an ancillary purpose by providing garaging, storage and stabling for hobby purposes associated with the residential use of the host property. The use of the stable was restricted to horses kept for hobby/domestic purposes ancillary to the occupation of Suffield Cottage but no restriction was placed on the use of the garage for the parking of vehicles or storage only.

The fact that a domestic garage and stable for hobby purposes was previously approved in the same place as the timber cabin does not set a precedent for allowing other buildings for different purposes. The NPA contend that the use of an outbuilding partially within a domestic curtilage for purposes ancillary to the enjoyment of the main dwelling is quite different to the erection of a building for use in effect as a separate dwelling and the associated activity, noise and disturbance that such a use might generate. This is the main thrust of the NPAs reason for refusal, not the landscape impact but that the proposal would give rise to an intensification of activity on the site likely to cause additional noise and disturbance to the occupiers of the neighbouring property than would be generated from private domestic use, contrary to Policy UE4.

The appeal proposal should be assessed against Policy UE4 which only supports the development of new holiday accommodation within a residential curtilage where it makes use of an existing building which is of architectural or historic interest and makes a positive contribution to the character of the surrounding area. The timber cabin cannot reasonably be argued as being of architectural or historic interest, being a modern 'off the peg' timber cabin that does not reflect the local vernacular and does not make a positive contribution to the character of the surrounding area. It is sited within the domestic curtilage and viewed against the backdrop on the neighbouring agricultural building and as such is not unduly prominent in the landscape and the NPA would accept it has a neutral impact.

Policy UE4 only permits new build (as opposed to conversion) holiday accommodation within the domestic curtilage where it is for a new camping or glamping unit and the size and layout of the residential curtilage is such that a proposal can be accommodated in a way that does not detract from the character and appearance of the locality and does not cause harm to local amenity. By camping and glamping units, the Local Plan refers to units under 25 sq.m that are not connected to the foul drainage system. In this case the appeal proposal is for the retention of a timber cabin with a footprint in excess of 42 sq.m which cannot reasonably be argued a camping or glamping unit.

A search of the Authority's records indicates that where approval has been given for new build holiday accommodation within domestic curtilages, these are typically for small glamping units such as camping pods or shepherds' huts at isolated properties where there are no immediate neighbours that might otherwise be affected by the additional activity about the site.

In view of the above the Authority maintains its position that the appeal proposal is contrary to Policy UE4 in that it relates to the retention of a timber cabin for holiday letting purposes rather than a small camping or glamping unit, which would give rise to an intensification of activity on the site and given the siting of the unit along the shared boundary with the neighbouring property, is likely to cause noise and disturbance to the occupiers of that property.

7.0 Comments on Grounds of Appeal

At point 4 of the appellants statement, they refer to ENQ18818 as seeking advice regarding a change of use of the timber garage (not yet erected) to a single unit holiday let when in fact the letter advised the NPA that they wished to use the garage as a one-bedroom residential annexe for family members with the possible occasional holiday use. That explains why the letter of advice refers to Policy CO17 (Householder Development).

At point 5 and 9, the appellant suggests that the NPA should have made an exception to long established planning policy regarding development in the open countryside to allow the construction of a timber cabin as they considered it to meet the needs of their existing rural enterprise i.e. bed and breakfast accommodation provided within the main dwelling. Planning permission is not required to operate a small scale bed and breakfast business from a domestic dwelling (where a material change of use has not occurred) and the presence of such low-key ancillary business is not considered to be an essential rural enterprise that justifies new build in the open countryside contrary to established local and national planning policy.

At point 10 the appellant cites that the NPA should have advised that if the domestic curtilage was reduced the timber cabin would have been out with the domestic curtilage and could have been more favourably considered against Policy UE2. Whilst the NPA does seek to advise applicants as to the best course of action to achieve sustainable development, it is not in a position to advise how to best circumnavigate planning policy to the detriment of the National Park. Nonetheless even if the timber cabin was located out with the domestic curtilage and assessed against Policy UE2, it is more than likely that the NPA would have concluded that it was not well screened in the landscape and that it would lead to unacceptable harm in terms of noise and activity being so close to residential properties.

At point 16 the appellant suggests that the level of activity generated by use of the timber chalet for holiday letting purposes is negligible when compared to the uses that can already take place in and around the outbuilding for domestic purposes. However, the timber cabin is in effect a separate dwelling and Environmental Health (Commercial Regulation) do acknowledge that holiday lets do have the potential to be noisy and disruptive given that

they are occupied by visitors on holiday, although they did not comment on the appeal proposal.

At point 19 the appellant suggests that the application “seeks to re-purpose an existing building (timber garage) within the domestic curtilage” when in fact the garage was never built and the timber chalet on site was purpose-built as a unit of permanent residential accommodation rather than a garage or outbuilding. Furthermore, there is no essential need to site a timber cabin here as the appellant suggests. Strategic Policy B identifies the Open Countryside as the rest of the National Park outside those listed settlements where development “will not be allowed save in a very few circumstances” for example, where there is an essential need to meet the needs of farming, forestry and other rural enterprises or land management activities that have to be located in the countryside. That does not apply in this case.

The appellant also refers to commercial development at a number of neighbouring properties although these all make use of existing structures and are supported by different policies within the NYM Local Plan dedicated to supporting the rural economy and farm diversification.

In response to the other approvals for holiday letting accommodation that the appellant refers to in Appendix N of their statement, the NPA would contend that each application is dealt with on its own merits and the acceptability of a similar scheme elsewhere does not necessarily set a precedent for approval of this appeal proposal. However the NPA would offer the following comments on each of the applications for holiday letting accommodation that the appellant has referred to::

NYM/2021/0049/LB Northfield Farm, Suffield – This relates to the conversion of a grade II listed redundant farm building into holiday letting accommodation and is quite different to the appeal proposal for the siting of a timber cabin within a domestic curtilage. The NPA has a duty to support alternative uses for heritage assets where they represent the optimum viable use which is compatible with its conservation.

NYM/2018/0673/FL Northfield Cottage, Suffield – This relates to the conversion of an existing attached garage into annexe/holiday letting accommodation rather than the construction of a modern ‘off the peg’ timber cabin of no architectural or historic interest and was considered under the policies of the previous adopted NPA Core Strategy and Development Policies Document. Furthermore, the neighbours have control over that accommodation but not over the use and activity of the appeal proposal and as such there is potential for an adverse impact on their residential amenity.

NYM/2022/0876 Little Acre, Kilburn – This is a similar application to the appeal proposal and was also assessed under NYM Local Plan Policy UE4 however that property occupies a significantly larger curtilage in an isolated location with no immediate neighbours. Furthermore the proposal was for a much smaller camping/glamping unit (20 sq.m), similar in size and scale to a domestic summerhouse and therefore supported by Policy UE4.

NYM/2023/0151 Shambala, Fylingdales – Again this is a similar application to the appeal proposal and was also assessed under Policy UE4 however that property occupies a significantly larger curtilage in an isolated location with no immediate neighbours. Furthermore the proposal was for a much smaller unit (16 sq.m), similar in size and scale to a domestic shed and therefore supported by Policy UE4.

NYM/2019/0673/FL 6 Ellerby Lane, Runswick – This relates to the conversion of an existing outbuilding within the domestic curtilage into holiday letting accommodation and it therefore different from the appeal proposal. It was refused by the NPA but subsequently allowed on appeal. It makes use of an existing building although it was considered to be of any architectural or historic interest by the NPA.

NYM/2016/0367/CU 56 Ellerby Lane, Runswick Bay – Although this is a very similar case to the appeal proposal there are notable differences. The outbuilding concerned had been lawfully erected using domestic permitted development rights and was already lawfully in use as overflow accommodation, incidental to the enjoyment of the main dwelling on the site. The application sought to allow the use of the accommodation for up to 15 weeks per year as a holiday cottage and was approved under the policies of the previous adopted NYM Core Strategy and Development Policies Document.

NYM/2018/0786/CU Highmoor Croft, Hutton Buscel – This relates to the conversion of an existing outbuilding of architectural and historic merit within the village of Hutton Buscel which was already in use as annexe accommodation to the main dwelling to holiday letting accommodation. It differs to the appeal proposal in that it made use of an existing building in a village location where there would already be a notable degree of noise, disturbance and activity.

NYM/2019/0210/CU The Shed, Chapel Yard, High Street, Staithes – This relates to the conversion of a former commercial laundry in the centre of the densely developed Staithes into a holiday letting cottage and is therefore not comparable with the appeal proposal.

NYM/2021/0994/FL 10 The Cliff, Iburndale – This relates to the replacement of a Nissen hut with a timber cabin for holiday letting purposes and is therefore similar to the appeal proposal. However the proposal was for a much smaller camping/glamping unit (22.5 sq.m) and therefore similar in size and scale to a domestic outbuilding. However the proposal lay out with the domestic curtilage and immediately adjacent to a range of former outbuildings which are operated as three units of holiday letting accommodation and therefore, it was considered that the neighbouring property had a commercial use rather than domestic residential.

8.0 Conclusion

In view of the above it is considered that the appeal proposal would introduce a level and form of commercial tourist activity which would be inappropriate within the domestic curtilage of an existing private dwelling, and owing to its siting along the shared boundary, would give

rise to an intensification of activity on the site likely to cause additional noise and disturbance to the occupiers of the neighbouring property than would be generated from private domestic use. Furthermore, the proposal relates to the retention of a sizeable timber cabin for holiday letting purposes, which is not of a character or appearance worthy of retention sufficient to override detrimental impact on neighbouring residential amenity.

The NPA is also concerned that the proposal would utilise the location of the previously approved garage and stable building, potentially leading to pressure for additional structures for domestic garaging and storage within the curtilage, which due to the open nature of the site would be visually intrusive, detrimental to the character of the area.

As such it is considered that the proposal is contrary to North York Moors Local Plan Policy UE4 (New Holiday Accommodation Within Residential Curtilages) which only permits new holiday accommodation within residential curtilages where there would be no harm in terms of noise and activity on the amenity of the neighbourhood. Therefore, the NPA respectfully requests that the Inspector dismisses the appeal. However, should the Inspector be mindful to allow the appeal, a list of conditions which the NPA would wish to see imposed are attached at Appendix G.

Appendix G

Conditions

1. The dwelling unit hereby approved shall not be used for residential purposes other than holiday letting purposes. For the purpose of this condition 'holiday letting' means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 days in any one calendar year.
2. The units of holiday letting accommodation hereby permitted shall form and remain part of the current Planning Unit presently known as Suffield Cottage as shown edged blue/red on the site location plan. The holiday units shall not be let out or used in any way if the holiday letting units are functionally separated (either Freehold or Leasehold) and shall at all times remain together in same overall Planning Unit.
3. No external lighting shall be installed in the development hereby permitted until details of lighting have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be Dark Skies compliant, and no other lighting shall be installed on the site. The lighting shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.