



The Planning
Inspectorate

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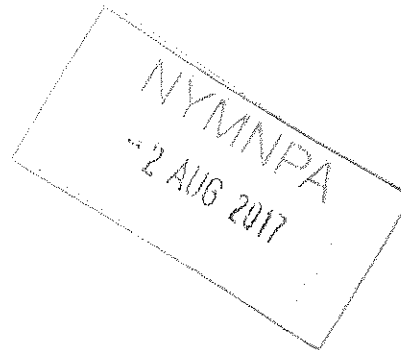
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www.gov.uk/planning-inspectorate

Mrs Wendy Strangeway
North York Moors National Park Authority
Development Control Support Officer
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

Your Ref: NYM/2015/0885/FL
Our Ref: APP/W9500/W/17/3171625

02 August 2017



Dear Mrs Strangeway,

Town and Country Planning Act 1990
Appeal by Mr Keith Dobbie
Site Address: Paddock South of Wyke Lodge, Hodgson Hill, Staintondale

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Nick Holmes

Nick Holmes

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

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Appeal Decision

Site visit made on 26 June 2017

by **Elaine Worthington BA (Hons) MTP MUED MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd August 2017

Appeal Ref: APP/W9500/W/17/3171625

land to the south of Wyke Lodge, Hodgson Hill, Staintondale, North Yorks

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Keith Dobbie against the decision of North York Moors National Park.
 - The application Ref NYM/2015/0885/FL, dated 28 November 2015, was refused by notice dated 7 December 2016.
 - The development proposed is the change of use of land from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home at land to the south of Wyke Lodge, Hodgson Hill, Staintondale, North Yorks in accordance with the terms of the application, Ref NYM/2015/0885/FL, dated 18 November 2015, subject to the conditions in Annex A.

Application for Costs

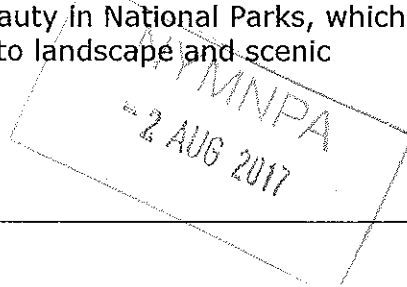
2. An application for costs was made by Mr Keith Dobbie against North York Moors National Park. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the National Park.

Reasons

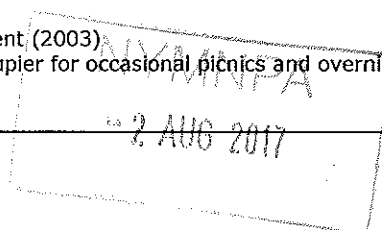
4. The appeal site is a paddock with an existing access from the main road running between Cloughton and Staintondale. It is surrounded by ancient woodland that is covered by a Woodland Tree Preservation Order (TPO). There is a touring caravan on the site for which a Certificate of Lawfulness (COL) was granted in October 2015.
5. It is within the North York Moors National Park. Paragraph 115 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving the landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty.



6. The appeal site is within an area defined¹ as coast and coastal hinterland which is characterised by rolling coastal landscape drained by steeply incised winding becks and deep valleys lined with deciduous woodland, much of it ancient semi-natural woodland. The landscape within the immediate vicinity of the appeal site is one of rolling farmland interspersed with wooded valleys.
7. Core Policy A of the North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies (LDF) seeks to provide a scale of development and level of activity that will 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 (criterion 1).
8. Although the proposal does not concern the creation of a new chalet site or expansion of an existing site, the Authority also considers the criterion in LDF Development Policy 16 to provide helpful guidelines in this case. This requires (amongst other things) all proposals to be located within an area of well-established woodland so as to provide a setting which will enable the proposal to be accommodated in the wider landscape without harming the Park's special qualities; be physically and functionally linked to an existing business and to be managed appropriately without the need for additional permanent residential accommodation; and be in close proximity to the road network and not result in an increase in traffic generation that would be harmful to the character of the area or highway safety.
9. The National Planning Practice Guidance (the Guidance) confirms that National Park Management Plans can be material considerations in making decisions on individual planning applications where they raise relevant issues. The North York Moors National Park Management Plan (MP) seeks to ensure that the National Park purposes are being delivered whilst contributing to the aims and objectives of other strategies for the area. MP Policy E1 states that the landscape character of the National Park will be maintained and enhanced. MP Policy E4 advises that new development will not have a detrimental impact on the landscape of the National Park. MP Policy E19 indicates that the existing tranquil areas will be protected, and expanded where possible.
10. Notwithstanding the nature of the previous occupier's use of the appeal site², the COL allows its use for the siting of one touring caravan for use by the owner of the land (and family members) for holiday and/or recreational purposes only for up to 100 nights a calendar year at weekends (and not as permanent residential accommodation or for any commercial use). This use of the site is lawful and is an important consideration and fallback position.
11. The proposal seeks the replacement of the existing touring caravan with a timber log cabin. This would be around 10 metres by 6 metres with an eaves height of 2.4 metres and a ridge height of 3.7 metres. The Authority is content that it would meet the definition of a caravan set out in the Caravan Sites Act of 1968, and I see no reason to come to a different view. The appellant has clarified through the appeal that the cabin would be used by the appellant or members of his family only for holiday purposes. It would not be made available to anyone else, including friends or members of the public and there

¹ in the North York Moors National Park Landscape Character Assessment (2003)

² as a cottage garden with a touring caravan that was used by the occupier for occasional picnics and overnight stays to tend the paddock

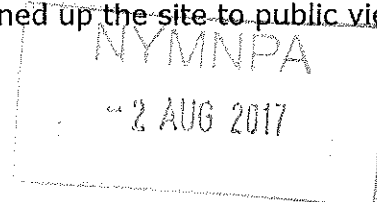


would be no commercial letting. This could be controlled via a planning condition. In this regard, the proposed occupation of the cabin would align with that of the touring caravan allowed by the terms of the COL.

12. The proposal also seeks an increase in the maximum number of days that the site could be occupied in a calendar year from 100 to 150 days. Additionally, these would not be limited to the weekends (as is currently the case under the terms of the COL). This would represent a 50% increase in the number of days the site could be occupied. It would also allow a less restrictive occupation of the site outside just the weekends, and could result in the site being occupied for longer more continuous periods (albeit that these would be balanced by corresponding periods when it would be empty).
13. The COL allows only the siting of a touring caravan and not a cabin. The proposed cabin would have two bedrooms and two bathrooms and would be bigger than the existing tourer on the site and provide better facilities. That said, I am conscious that the existing touring caravan on the site is relatively old and dated and could be replaced by a newer larger touring caravan within the terms of the COL. As such, I am not persuaded that the proposal would necessarily increase the number of potential occupiers of the site to any great extent in comparison with lawful use of the site.
14. Taking these factors into account, in practical terms, whilst there would be some very limited intensification of the use of the site as a result of the appeal scheme I do not consider that any resultant increase in activity levels would be significant.
15. The MP advises that tranquillity could be described as the quality of calmness experienced in places with mainly natural features and activities, free from disturbance from man-made ones. The appeal site lies well away from the urban fringes of Scarborough in ancient woodland nearby a watercourse. I appreciate that the presence of running water and woodland contribute to the sense of quiet and calmness there. I also note the Council's reference to a popular cycle trail along the disused railway line that passes to the east of the site which is used for the quiet enjoyment of the area.
16. Nevertheless, the appeal site does not lie within one of the most tranquil areas of the Park (these are considered to be the moorland and dales). Although I note the Authority's view that it does not experience heavy traffic, the site adjoins the main road where traffic noise is audible. There are also a number of residential properties nearby including Bridge Cottage some 45 metres to the north along with Wyke Lodge and Wyke Lodge Cottage around 75 metres to the north west. Furthermore, the site has a lawful use for recreational/holiday purposes. As such, whilst the site is relatively quiet and calm, it is not particularly remote or isolated and there are a number of man-made features and activities nearby which means that it is not free from disturbance.
17. In this context, I am not persuaded that the the modest increases in the levels of activity described above (including the comings and goings of the future occupiers in vehicles) and the associated noise and disturbance that would arise, would be harmful to the calm and still nature of the woodland valley or detrimental to the quiet enjoyment, peace or tranquillity of this part of the National Park.

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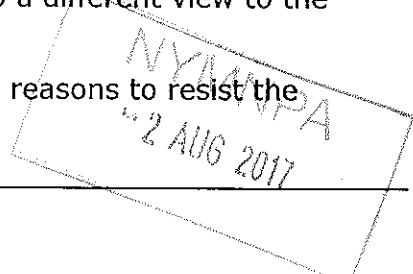
18. In terms of its visual impact, the proposed cabin would be of a high quality contemporary design. It would be located around 25 metres to the east of the existing touring caravan and due to the change in ground levels would be around 2 metres below it. As such, it would be set well back from the road. It would also be effectively screened by the existing surrounding trees and woodland and would not be visible to view from the road or in the wider landscape. Despite the concerns of local residents, given the existing screening and separation distances involved, nor do I think that it would be prominent in views from any of the nearby properties. This would be so even in the winter months when the trees and vegetation are not in leaf.
19. Moreover, the existing touring caravan is prominently sited at the top of the slope immediately adjacent to the access track and is clearly visible from the road. It would be removed as part of the appeal proposal and this could be secured via a planning condition. As such, it seems to me that despite being larger than the tourer, the cabin would be located in a much more discreet position within both the site and the surrounding landscape. Thus, it would represent an improvement over and above the existing situation in terms of its impact on the appearance of the area.
20. As set out above, I have also considered the possibility that the existing touring caravan could be replaced by a larger more modern one. I note the Authority's view that due to the site area and its levels, any such replacement would have to be sited in the position of the current caravan. Even so, a larger more modern tourer in that location would appear even more prominent and obtrusive than the existing caravan. This scenario cannot be ruled out and adds to my view that the appeal scheme would have benefits in this regard.
21. I have also had regard to the Authority's argument that the proposal would lead to a more permanent form of development with a formal access track (turning area and parking spaces) along with sewerage and service connections. With regard to the later, the cabin would be served by a bio-tech septic tank which by its nature I accept would be more permanent than a tourer with a chemical toilet which could be more readily moved around. On the other hand, the cabin would be constructed on a surface mounted plinth foundation system rather than a concrete base. This being so, the cabin could be easily removed if it were no longer required without damage to the natural landscape, and it would not be difficult restore the site. On this basis, I see no reason why the more permanent nature of the cabin would in itself be harmful.
22. The appellant has recently undertaken woodland management works including the removal of some trees (considered by the appellant to be diseased and dying) along with the roadside hedgerow. The site access (that was previously a track with a wooden farm gate) has been widened and its gradient reduced. It has also been surfaced with re-cycled hardcore and provided with a metal gate. These works have already been undertaken and are considered by the Authority to be unauthorised. I accept that they have formalised the entrance to the site and to some extent undermined the formerly discrete wooded nature of the original access. They have also opened up the site to public view from the road.



23. That said, as part of the appeal scheme, the roadside hedge would be reinstated and screen planting would be provided along the northern boundary of the site. Additionally the hardcore on the access track would be replaced with local crushed limestone. These matters could be secured via planning conditions. On this basis, I am content that the proposal would be generally inkeeping with the area and would not appear particularly at odds with the other existing accesses and driveways nearby. As such, I see no reason why this aspect of the proposal would be unduly harmful to the character or appearance of the area.
24. Bringing matters together, overall I am satisfied that the scale of development proposed and level of activity that would arise in this case, would not have an unacceptable impact on the wider landscape or the quiet enjoyment, peace and tranquillity of the National Park. Nor would it detract from the quality of life of local residents or the experience of visitors.
25. I therefore conclude on this issue that the proposal would not be harmful to the character and appearance of the National Park. Thus the proposal would conserve the natural beauty, wildlife and cultural heritage of the area, and would not conflict with the statutory purposes of National Parks, the Framework, or the LDF or MP policies considered above.

Other matters

26. I appreciate that there is strong local objection to the proposal. Residents refer to the distress caused by the works already undertaken and those proposed. However, the Authority raises no objections to the proposal in relation to its impact on the living conditions of nearby occupiers. Given the separation distances involved and the intervening woodland, even during the winter months when the trees are not in leaf, I am not persuaded that any undue loss of outlook, privacy, or adverse effects on living conditions arising from noise and disturbance would arise to nearby occupiers.
27. I am also aware of local residents' concerns in relation to the impact of the proposal on wildlife. Given the lawful use of the site and my findings that the proposal would lead to only a very limited intensification of the use and an increase in activity levels that would not be significant, and in the absence of any substantiated evidence, I have seen nothing to demonstrate that the proposal would be harmful to wildlife. The Authority raises no objections to the proposal on this ground. Additionally local residents cite issues of works to the nearby watercourse and the potential for pollution. However, a condition could be imposed to ensure the submission of appropriate details in relation to foul water drainage. This would ensure that the site is adequately drained and would prevent pollution.
28. Notwithstanding objections from local residents, the Highway Authority raises no objections to the proposal as long as the access is provided to the necessary standards to ensure that mud is not tracked onto the carriageway. In fact, it considers that the construction of a better access would improve the existing situation (whereby vehicles drive across the grass highway verge). Based on the evidence before me, I see no reason to come to a different view to the Highway Authority on the issue.
29. As such, I do not regard any of these matters to be reasons to resist the development.



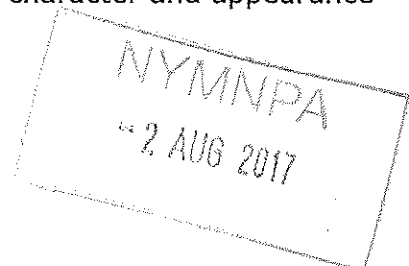
30. Local residents and the Parish Council are concerned about the appellant's association with a business that provides wood lodges and the potential for more cabins to be introduced to the appeal site along with the running of a business from there. Reference is also made to a preferred alternative site for the cabin on land further to the south. However, neither of these matters form part of the proposal before me and would themselves require further applications for planning permission. I confirm in any event that I have considered the appeal proposal on its own planning merits.

Conclusion and Conditions

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.
32. The Authority has suggested a number of conditions which I have considered in light of the advice in the Framework and the Guidance. I have amended some of the wording for the sake of clarity.
33. A condition requiring development in accordance with the approved plans is necessary in the interests of certainty. A condition limiting the cabin's occupation to holiday/recreation use by the owner and his family, along with the number of days when it can be occupied, is needed to preclude its permanent occupation and in the interests of the character of the National Park to ensure its special qualities are safeguarded. Additionally I have imposed a condition to secure the removal of the existing caravan from the site and to preclude the siting of any further caravans there. This is required as the proposal has been clearly advanced as a replacement to the touring caravan and in order to limit the scale of the development at the site in the interests of the character and appearance of the surrounding area and the National Park.
34. A condition requiring the removal of the cabin from the site in the event that is unoccupied is also necessary to safeguard the character of the National Park. A condition to control outdoor lighting at the site is necessary in the interests of the character of the area and the living conditions of nearby occupiers. Conditions seeking details of the timber cladding for the cabin, and the requirement for it to have a dark grey roof, are needed in the interests of the character and appearance of the area.
35. A condition relating to foul water drainage is required to ensure the site is adequately drained and in order to prevent pollution. I have imposed a condition requiring the construction of the access in accordance with the Highway Authority's published specifications (and other approved details) in the interests of highway safety. A condition to ensure the access is constructed of local crushed limestone is required to safeguard the character and appearance of the area. I have imposed a condition relating to hard and soft landscaping for the same reason. Finally, a condition removing the permitted development rights associated with a caravan site licence is necessary to control the amount of development on the site in order to safeguard the character and appearance of the area.

Elaine Worthington

INSPECTOR



Annex A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
KYN014021-20 Rev C Site Location Plan
KYN014021-03 Rev I Proposed Site Layout
KYN014021-03-02 Rev G Proposed Detailed Site Layout
KYN014021-06 Rev F Site Longitudinal and Cross Sections
KYN014021-09 Rev G Proposed Caravan and Replacement Store Plans and Elevations
KYN014021-08 Rev F Proposed Plan of Modular Units
KYN014021-07 Rev F Proposed Elevations of Modular Units
KYN014021-04 Rev E Proposed Caravan Elevations
KYN014021-05 Rev E Proposed Caravan Elevations
- 3) The development hereby approved shall only be occupied for holiday and/or recreational purposes by the owner of the land edged blue on drawing number KYN014021-20 Rev C and members of the owner's family. The development shall not be occupied as a person's sole or main place of residence, or for more than 150 days per calendar year. The owner shall maintain an up-to-date register of the names and addresses of all occupants of the development and shall make this information available at all reasonable times to the local planning authority.
- 4) The development hereby approved shall not be occupied until the existing touring caravan has been removed from the site. Other than the cabin hereby approved, no caravans shall be stationed on the site thereafter.
- 5) If the development hereby approved remains unoccupied for a period exceeding one year, the use shall cease and the cabin shall be removed and the land shall be restored to its condition before the development took place.
- 6) No external lighting shall be installed at the site other than in accordance with details that have been submitted to and approved in writing by the local planning authority. The lighting shall be installed in accordance with the approved details and maintained as such thereafter.
- 7) No development shall commence until details of the timber cladding to be used in the construction of the external surfaces of the cabin hereby permitted have been submitted to and approved in writing by the local planning authority. These details shall include the design and fixing of the cladding and samples. Development shall be carried out in accordance with the approved details/samples.
- 8) The roof shall be coloured dark grey prior to the development being brought into use and shall be retained as such.
- 9) No development shall commence until details of the means of foul water drainage have been submitted to and approved in writing by the local planning authority. The use shall not commence until the drainage works have been provided in accordance with the approved details.

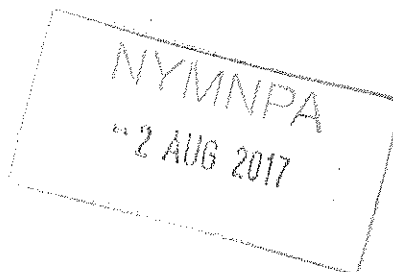
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- 10) No groundworks (or depositing of materials on the site) shall take place until the access to the site has been constructed in accordance with the published specification of the Highway Authority and details relating to the crossing of the highway verge and prevention of surface water discharge on to the highway that have been submitted to and approved in writing by the local planning authority.
- 11) The access to the site shall be surfaced with local crushed limestone prior to the development being brought into use and shall be retained as such.
- 12) The development hereby approved shall not commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) screen planting along the northern site boundary;
 - ii) hedge planting on the western site boundary;
 - iii) details of any existing hedges and trees to be retained;
 - iv) details of plant species, sizes and planting densities for new areas of planting;
 - v) details of the hardsurfacing;
 - vi) an implementation programme/timetable; and
 - vii) a scheme of management and maintenance.

The landscaping works shall be carried out in accordance with the approved details and the agreed implementation programme/timetable.

The completed landscaping scheme shall be managed and maintained in accordance with the approved scheme of management and maintenance.

- 13) Notwithstanding the provisions of Class B, Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development required by the conditions of a caravan site licence shall be permitted other than those expressly authorised by this permission.





Costs Decision

Site visit made on 26 June 2017

by **Elaine Worthington BA (Hons) MTP MUED MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date:

Costs application in relation to Appeal Ref: APP/W9500/W/17/3171625 land to the south of Wyke Lodge, Hodgson Hill, Staintondale, North Yorks

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Keith Dobbie for a full award of costs against North York Moors National Park.
 - The appeal was against the refusal of planning permission for the change of use of land from the siting of a touring caravan to the siting of a log cabin/chalet/mobile home.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (the Guidance) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The Guidance states that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through unavoidable delay.
4. Examples of behaviour which may lead to an award of costs against the local planning authority are also set out in the Guidance. These include failure to produce evidence to substantiate each reason for refusal on appeal. The appellant considers that there is an absence of technical evidence and objective analysis to justify the reason for refusal.
5. The Authority argues that it made a decision based on the information submitted with the planning application and having regard to the fallback position. It found the proposal to amount to an unacceptable intensification in the use of the site. The minutes from the planning committee meeting refer to the increase in the days of occupation and change in nature of the use compared to that allowed under the Certificate of Lawfulness.
6. The appellant has clarified through the appeal that the cabin would be used by the appellant or members of his family only (and that it would not be made available to anyone else, including friends by invitation or members of the public). However, this was not clear at the time of Members' consideration of the planning application. Based on the information previously provided by the

appellant, Members understood that the cabin was also intended for use by friends of the owner by invitation. In his final comments the appellant acknowledges that his previous written statement is ambiguous in this regard.

7. Notwithstanding this misunderstanding, there are other elements of the proposal that point to an intensification of the existing use. These are considered in the Authority's statement and also in my Appeal Decision where I acknowledge that the proposal would increase the number of days of occupation of the site and that these would no longer be limited to weekends only. I also accept that the proposal would result in the siting of a bigger unit with two bedrooms and two bathrooms.
8. As set out in the my Appeal Decision, whilst I have found that there would be some very limited intensification of the use of the site as a result of the appeal scheme, I do not consider that any resultant increase in activity levels would be significant. Although Members came to a different view, the matter of whether the proposal constitutes an intensification of use that would be harmful to the character of the area requires the exercise of judgment. This is also true when it comes to assessing its visual impact. Members are entitled to come to a different view to Officers and are not bound by their recommendations.
9. Members made their decision based on the submitted information, a site visit, representations from local residents and the Parish Council along with the views of the Authority's solicitor. What technical evidence is envisaged by the appellant to be necessary to support the Authority's case is not explained. In any event, I am satisfied that the Authority has adequately described what it considers to be the potential impacts of the proposal, and has substantiated the reason for refusal with some level of objective analysis and reference to the North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies, The North York Moors National Park Management Plan and the Framework.
10. As described in my Appeal Decision, whilst I do not agree with the concerns of Members in this case, I nevertheless consider that they had reasonable grounds to come to a different view to Officers. It is not unreasonable to refuse an application despite the lack of objections from statutory consultees. There are objections from the Parish Council and residents and a good deal of local concern. Overall, I have come to a different conclusion as to the overall acceptability of the scheme, based on the balancing of a number of planning factors, but am content that the Authority's reason for refusal stands up to scrutiny on the planning merits of the case.
11. This being so, I am not convinced that the appeal could have been avoided, and overall am content that the Council has not prevented or delayed development which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
12. I therefore conclude that the Council's behaviour has not been unreasonable and the appellants' costs in mounting the appeal were not unnecessarily incurred. Consequently, for the reasons given above, the application for a full award of costs is refused.

Elaine Worthington

INSPECTOR

