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## Appeal Decision

Site visit made on 5 December 2013

by **Gary Deane BSc (Hons) DipTP MRTPI**

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

Decision date: 14 January 2014

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**Appeal Ref: APP/W9500/A/13/2204868**

**Stable Block at Rockhaven, Newlands Road, Cloughton, Scarborough,  
North Yorkshire YO13 0AR**

- 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 Malcolm Armstrong against the decision of the North York Moors National Park Authority.
- The application Ref NYM/2013/0279/FL, dated 5 May 2013, was refused by notice dated 19 July 2013.
- The development proposed is described on the application form as the change of use of existing stable structure to a single residential unit with associated alterations to elevations including glazed corridor.

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### Decision

1. The appeal is dismissed.

### Procedural matters

2. An application for costs was made by the North York Moors National Park Authority against Mr Malcolm Armstrong. This application is the subject of a separate decision.
3. Notwithstanding the description of development given on the application form, the Authority has referred to it as the conversion of, and alterations to, the stable/studio building including the addition of a glazed corridor to form residential annexe accommodation together with the formation of an access and utilising the existing turning area in front of the building. The appellant appears to have accepted this amendment. I have assessed the proposal on that basis.

### Main Issue

4. The main issue is, having particular regard to national guidance and local planning policies that govern the provision of residential annexe accommodation and the location, size, position and design of the development proposed, its effect on the character and appearance of the local area.

### Reasons

5. The proposal is to convert and externally alter a recently completed building that lies in the vicinity of Rockhaven, which is a large detached house set within generous grounds, to residential use. The appeal building is currently divided

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into a double garage and stables with a studio above. Its use is now redundant due to the ailing health of the appellant and his wife that both reside at Rockhaven and intend to occupy the building, once converted.

6. The site occupies an isolated location in the countryside, within the North York Moors National Park. 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. Amongst the core principles of the Framework are for planning to recognise the intrinsic character and beauty of the countryside and to support thriving rural communities within it; to contribute to conserving and enhancing the natural environment; and to encourage the reuse of existing resources, including the conversion of existing buildings. The North York Moors Local Development Framework Core Strategy and Development Policies (LDF), although adopted well before the publication of the Framework, reflect these core principles.
7. Development Policy 19 of the LDF states that development involving annexe accommodation within the domestic curtilage of dwellings will only be supported where it is ancillary to the main dwelling in terms of its scale and specification. In this case, the appeal scheme would be fully self-contained with living accommodation on two floors, including two bedrooms, a kitchen, living room, utility room, bathroom and garage. The plans show that the new use would be served by an independent access from Newlands Road with adequate space for vehicles to park and turn within the site. The red line plan shows that the appeal building would stand within its own curtilage, away from Rockhaven, and have access to separate outdoor space.
8. The proposal would enable the appellant and his wife to live independently within the annexe whilst his daughter and family would reside at Rockhaven. In this way, he and his wife would stay within the local community and be cared for in accommodation that is better suited to their needs. I am sympathetic to this desire and acknowledge that the proposed arrangements would reduce the burden of longer trips made by other family members to and from the local area. I also acknowledge that alternative accommodation using part of a building attached to Rockhaven, which is smaller than the appeal building and much closer to the road, is considered by the appellant to be unsuitable.
9. However, more commonly, a residential annexe would be in the form of an extension to an existing building with limited facilities and often a physical connection between the two elements. When the annexe is no longer required the accommodation would then be incorporated within the main dwelling and the whole would then be used as a single house. Appropriate planning conditions to ensure this happening could be imposed in line with the guidance contained in Circular 11/95, *The Use of Conditions in Planning Permissions*. This general arrangement is likely to partly reflect the requirement in Development Policy 19 that new build annexe accommodation, which is not proposed here, should be physically attached to the main dwelling.
10. While the appellant and his wife would reside within the annexe in the first instance, that situation would not be permanent. The appeal building, once converted, would be likely to subsist for many years to come. There could be a request to use it independently in the future, which may be contrary to relevant

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planning policies including Core Policy J of the LDF, which aims to direct new housing towards the built up areas and to limit such development in the countryside. It is not certain that this would come to pass but the possibility is one that I consider is relevant at this stage. In my view, conditions imposed to control the use of the building in this case would be difficult to enforce in the long term and would not be appropriate having regard to the guidance in Circular 11/95 and the Framework.

11. Taking into account the physical detachment, size and free-standing, self-contained nature of the new development, I consider that the proposal would in effect, and in all practical terms, be a separate unit of residential accommodation rather than a residential annexe that is clearly ancillary to Rockhaven. The Authority appears to reach a similar conclusion. On that basis, I find that the proposal conflicts with LDF Development Policy 19, which seeks to safeguard the special qualities of the National Park's landscape areas.
12. LDF Development Policy 8 deals with the conversion of traditional unlisted rural buildings outside defined settlements. It notes that a residential annexe to an adjacent existing dwelling will be permitted subject to compliance with various criteria. Whether or not the appeal building should be regarded as a traditional rural building, I consider that it has no obvious or acknowledged historic or architectural merit. As such, the proposal would not meet criterion 1 of this policy. Furthermore, it would not form part of a group of existing buildings as required by criterion 7.
13. The proposal would also relate uneasily with the requirements of criterion 6 which concern changes to the building's curtilage and the vehicular access and parking arrangements. Even though the site currently lies within the curtilage of Rockhaven, the proposed use would bring increased pressure to put structures, means of enclosure and domestic paraphernalia on the land around the appeal building. These features are likely to have a more harmful visual impact on the open rolling landscape which characterises the locality than the parking of vehicles or the storage of equipment associated with the keeping of horses. A condition could be imposed to remove permitted development rights in relation to the erection of outbuildings and in respect of boundary treatment. A condition could also restrict the introduction of inappropriate outdoor items within the site garden equipment, furniture and trailers for washing lines. However, in my experience, this restriction can be very difficult to enforce as these items are often temporary, moveable and the harm arising from them can result from the cumulative effect of small-scale incremental change consistently made over time rather than directly from individual pieces of equipment.
14. Any domestic paraphernalia would be likely to be evident from Newlands Road as it passes the site and, in my judgement, would create prominent and harmful features in the rural landscape. While such items could potentially be introduced in association with the residential use of Rockhaven, the creation of a new use and separate curtilage would increase the likelihood of this happening, to the detriment of the character and qualities of the countryside. Accordingly, I find that the proposal conflicts with LDF Development Policy 3, which aims to maintain and enhance the distinctive character of the National Park, and criterion 6 of LDF Development Policy 8.

15. The plans show that the proposal would use an existing access from Newlands Road and introduce a long driveway across an open sloping field. The use of appropriate surface materials and additional landscaping could reduce the visual impact of this element of the appeal scheme on the open rural landscape. Nevertheless, it is likely, as the Authority suggests, that significant engineering works would be required to deal with the notable change in ground levels between the public highway and the appeal building. While the detailed design and layout of the new access driveway are not before me, these works add to my concerns about the overall urbanising effect of the proposal on the natural landscape. From my inspection of the plans, I see no obvious reason why the means of access could not be shared with Rockhaven, thereby obviating this potential harm. An alternative access could be subject to a condition, as the appellant suggests. Nevertheless, for the reasons given, I consider that the proposal materially conflicts with other aspects of LDF Development Policy 8.

16. The external changes to the appeal building to facilitate its residential use have been well designed with a new glazed corridor to link the new bedrooms and bathroom and full length glazed windows in place of one of the garage doors. These changes deal sensitively with the conversion of the building and retain its simple built form and visual character. This aspect of the proposal would therefore satisfy the high standards of design expected within National Parks and sought by LDF Development Policies 3 and 8. This favourable finding does not outweigh the harm that I have identified.

17. The appellant considers that Development Policy 8 in particular is unduly restrictive in the light of the Framework's policies that, amongst other things, advocate a wider range of uses for rural buildings and emphasise the importance of housing provision. Nonetheless, plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas. In that context, it is inevitable that local planning policies in the National Park will apply a greater degree of restraint to new development to conserve their landscape and natural beauty than outside of these designated areas. I find no significant inconsistency between Development Policy 8 and the Framework to the extent that the weight to be attributed to it should be significantly reduced or that the policy should be put to one side, as the appellant suggests.

18. Overall, I conclude that the proposal sits uncomfortably with national guidance and local planning policies that govern the provision of residential annexe accommodation and that, if permitted, it would be likely to seriously harm the character and appearance of the local area. In my view, the imposition of conditions would not satisfactorily mitigate this harm.

19. In reaching this conclusion, I accept that the proposal allows for a more efficient use of an underused building and would contribute in a modest way to the stock and choice of local housing, which are supported in the Framework. The Ministerial Foreword also stresses the need to house a rising population that wants to make new choices. The appellant has also referred to the Planning for Growth agenda, which I have taken into account. I also acknowledge the considerable support from others for the proposal.

20. Nevertheless, housing proposals should be considered in the context of the presumption in favour of sustainable development. As the Framework makes

clear, sustainability has many facets including the need to conserve and enhance the natural environment generally and safeguard designated landscapes specifically. Because proposals should be assessed against the policies of the Framework, taken as a whole, it is my judgement that the balance of national guidance does not support the appeal scheme.

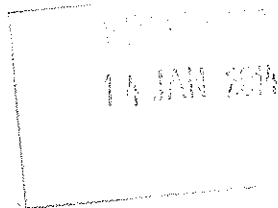
21. As the development plan is neither silent, absent or out of date and there are specific policies in the Framework with regard to National Parks, notably at paragraph 115, I consider that the special emphasis given to the presumption in favour of granting planning permission in paragraph 14 does not automatically apply in this case.
22. Other appeal decisions are also referred to outside the Authority's area, which I have considered. From the limited information provided, there appear to be few direct parallels between these cases and the proposal before me other than in general terms with regard to national planning policy. In any event, each proposal should be considered on its own merits, which I have done in this instance.
23. The Government has recently announced plans to extend permitted development rights to bring back into use empty and underused buildings in rural areas. These measures are the subject of consultation and so may change. Therefore, I attach very limited weight to this consideration in support of the appellant's case.

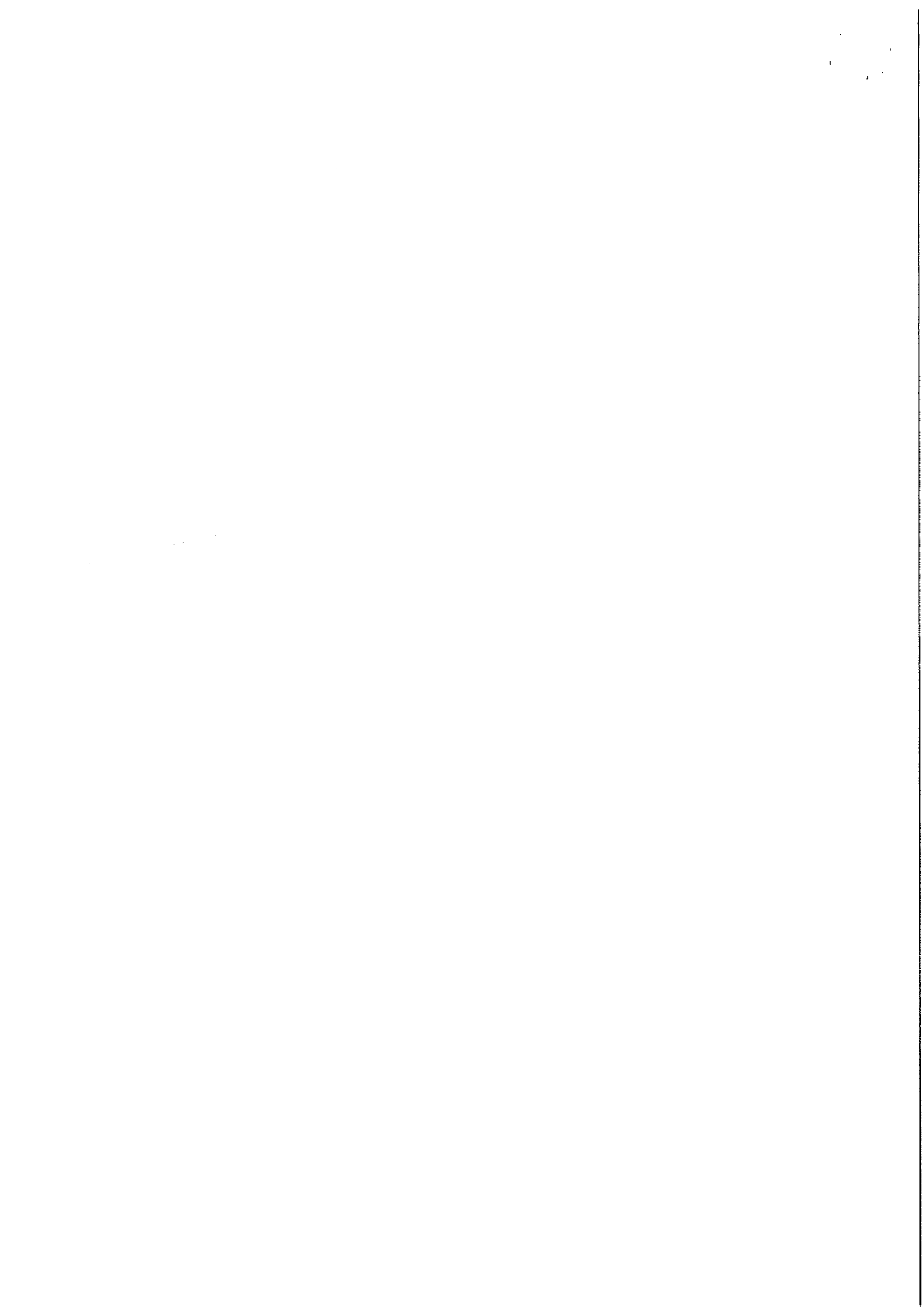
**Conclusion**

24. Overall, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Gary Deane*

INSPECTOR







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## Costs Decision

Site visit made on 5 December 2013

by **Gary Deane BSc (Hons) DipTP MRTPI**

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

Decision date: 14 January 2014

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**Costs application in relation to Appeal Ref: APP/W9500/A/13/2204868  
Stable Block at Rockhaven, Newlands Road, Cloughton, Scarborough,  
North Yorkshire YO13 0AR**

- 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 the North York Moors National Park Authority for a full award of costs against Mr Malcolm Armstrong.
- The appeal was made against the refusal of planning permission for the change of use of existing stable structure to a single residential unit with associated alterations to elevations including glazed corridor.

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### Decision

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

### Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Authority considered that the proposal was clearly contrary to national guidance and development plan policies and has stated that this position was made clear to the appellant in its pre-application advice. The implication of this opinion is that the right of appeal was not exercised in a reasonable manner because, in the Authority's eyes, it had no reasonable prospect of succeeding.
4. The Circular advises that these circumstances can result in an award of costs against an appellant if, for example, the proposal flies in the face of national guidance or is obviously not in accordance with the statutory development plan and no, or very limited, other material considerations are advanced with inadequate supporting evidence to justify determining otherwise.
5. To my mind, the appellant has put forward realistic and specific evidence at both the application and appeal stages to support the proposal. This evidence includes a detailed and objective analysis of national guidance and relevant local planning policies. Reference is also made, amongst other things, to the personal circumstances of the appellant, his wife and their family, and to other appeal decisions and the representations in support of the proposal.

6. To my mind, this evidence provides a more than respectable basis for the appellant's stance. Having assessed all of the information before me, I am unable to share the Authority's opinion that the outcome of an appeal was necessarily a foregone conclusion even if it considered that there was a decisive conflict with the policies of the development plan or with national guidance.
7. While Authority's objections were made known to the appellant at an early stage it is not unreasonable to seek to test those concerns through a well-reasoned case at the application and appeal stages. This is particularly relevant where there was a fundamental disagreement between the main parties as to whether or not the development sought was effectively a new build residential unit within the countryside.
8. That I have dismissed the appeal and supported the Authority's case reflects the judgements that I made on the submitted evidence rather than any inadequacies in the contents of the appellant's case. It does not mean that the appellant has failed to show clearly why in his view the development should have been permitted or that he has failed to substantiate his case.
9. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

*Gary Deane*

INSPECTOR

