

# **Appellants' Final Comments on the Local Planning Authority's Statement**

**Appeal by:** Mr and Mrs Coldbeck

**Appeal type:** Written Against: North York Moors National Park Authority

**Planning Inspectorate ref(s):** 6008430 and 6008431

**North York Moors National Park Authority ref:** NYM/0004/2026

**Location:** The Old Post Office, Harwood Dale, Scarborough, YO13 0LA

**Date:** 16.09.2026

## **Purpose and scope**

1. These final comments respond to the Local Planning Authority's statement and the Rights of Way comments appended to it. They should be read with the Appellants' appeal and Comment on LPA Costs Rebuttal submissions already before the Inspector. They do not seek to introduce new factual evidence or a new ground of appeal.
2. The Appellants do not dispute the limited fact that the present timber gates and close-boarded fencing were installed in 2025. The matters that remain disputed are the Authority's attribution of the removal of a dry-stone wall and widening of the northern access to the Appellants, the asserted extent of harm to the listed building and its setting, and the proportionality of the requirements of the enforcement notice.
3. For clarity, the earlier gates are not relied upon on the basis that their mere existence automatically made the materially different works carried out in 2025 lawful or immune from enforcement. Their relevance is to the correct factual baseline, the degree of change and the proportionality of the remedy under ground (f). Ground (f) is not an application for planning permission.

## **Removal of the dry stone wall**

4. The Authority states that the dry-stone wall was removed to widen the northern access. That statement is not supported by evidence identifying when the wall was removed, who removed it, or any connection between its removal and the works carried out in 2025.
5. The 2011 Google Street View image relied upon by the Authority establishes only that a wall was visible in 2011. As already stated in the Appellants' earlier material, the wall was absent when they acquired the property in 2017. The 2011 image therefore does not establish, on the balance of probabilities, that the Appellants removed the wall or widened the access.
6. This distinction matters because the Authority relies upon the alleged wall removal as a separate source of harm to the traditional entrance and the setting of the listed building. The Inspector is respectfully invited to assess the 2025 gates and fencing separately from an earlier change for which the Authority has established no date, author or causal connection.
7. To the extent that the enforcement notice is capable of being read as requiring the reinstatement of the dry-stone wall, the narrowing of the access, or the remedying of that earlier change, the Appellants request that it be corrected or varied under section 176 of the

Town and Country Planning Act 1990 so that its requirements do not extend beyond the operational development proved to have occurred in 2025.

### **Earlier gates and the factual baseline**

8. The Authority's statement records that, immediately before the 2025 works, there were double metal five-bar gates and a pedestrian gate at the eastern entrance, and a timber five-bar gate at the western entrance. The present gates therefore replaced gates at existing gated access points; they did not create two wholly new entrances.
9. The statement that there are 'no matters of common ground' is consequently too broad. At least the following facts are apparent from the Authority's own statement: gates existed at both entrances before the works; the present works were carried out in 2025; and the public right of way passes through the eastern part of the site. These matters do not determine the appeal, but they should form the factual baseline for assessing the alleged breach and the extent of any necessary remedy.
10. The comparable gates identified in the original appeal were relied upon as evidence of the local visual context, not as an allegation that another owner should be subject to enforcement action. The Authority does not substantively address or distinguish those examples. The Inspector is invited to take them into account only to the extent that they assist in deciding whether the description 'industrial' accurately reflects the established character of boundary treatments in the immediate area.

### **Heritage significance and the alleged loss of views**

11. The Authority identifies the listed smithy's age, design, materials and vernacular character as sources of significance. It does not, however, explain how a particular long-distance view through either entrance contributes to that significance. Nor does it identify a defined viewpoint, view corridor or feature of the dale that was visible before the 2025 works and is now obscured.
12. The assertion that the gates remove long-distance views is therefore a conclusion rather than a demonstrated assessment of effect. The photographs included with the Authority's statement and the physical relationship between the road, the yards, the landform and the listed smithy should be examined at the site visit. The relevant question is not simply whether the new gates are visible, but how and to what degree they affect an identified element of the heritage asset's significance.
13. The Authority's statement relies on the December 2024 National Planning Policy Framework. That version was replaced by the August 2026 Framework, whose decision-making policies apply from the date of publication. Policies N4 and HE4 to HE6 continue to require substantial weight to be given to the National Park and the conservation of designated heritage assets. Policy HE5 also requires the effect on significance to be identified accurately and proportionately. The Appellants respectfully submit that the Authority's general descriptions of the gates as 'industrial' and 'dominating' do not, without the missing analysis identified above, establish the asserted degree of harm.

## **Safety security and the public right of way**

14. The safety and security matters set out in the appeal remain relevant to proportionality. They include the need to contain animals, protect children, deter unauthorised access and safeguard machinery and livery equipment. Those matters are not advanced in these comments as a substitute for planning permission. They explain why a requirement that leaves both entrances entirely unsecured would go further than is reasonably necessary if a narrower remedy would address the identified visual injury.
15. The Authority also states that all benefits are private. While the security benefits principally accrue to the occupiers, the continued operation of the public right of way and the safety of its users remain relevant to a proportionate remedy under ground (f). The public footpath gate remains operable, and the Authority has identified no instance in which lawful passage has been prevented. A concern that the gate appears private is not, without evidence of obstruction or inability to operate it, the same as interference with the right of way.
16. The Rights of Way comments concerning stone surfacing or heaps of stone relate to matters outside the breach alleged in the enforcement notice. They should not influence the determination of this appeal. The relevant issue is whether the gate obstructs passage; the material before the Inspector does not establish that it does.

## **Proportionality under ground f**

17. Ground (f) asks whether the steps required by the notice exceed what is necessary to remedy the breach or the injury to amenity. The Planning Inspectorate's procedural guidance confirms that an appellant relying on this ground must identify lesser requirements capable of achieving the notice's purpose.
18. The Appellants' ground (f) case should be understood in the following confined terms. Any upheld requirements should:
  - exclude reinstatement of the dry-stone wall or narrowing of the northern access, because those matters have not been shown to form part of the 2025 works;
  - exclude any pre-existing or otherwise lawful elements that do not form part of the operational development carried out in 2025;
  - be confined to the parts of the 2025 close-boarded gates and fencing that the Inspector finds cause the identified visual injury; and
  - retain an operable pedestrian gate for the public right of way and, so far as is consistent with remedying the identified injury, a practical means of securing the existing entrances.
19. If the Inspector concludes that alteration of the 2025 works would adequately remedy the identified injury, the Appellants invite the use of the power in section 176 to vary the notice accordingly. This is a request for a proportionate remedy within ground (f), not a request to grant planning permission under ground (a).

## **Conclusion**

**20.** The Appellants respectfully request that the Inspector:

- attach no weight to the unsupported allegation that the Appellants removed the dry-stone wall or widened the northern access;
- treat the existence of gates at both entrances before the 2025 works as part of the agreed factual baseline;
- assess the claimed effect on views and heritage significance by reference to the actual site relationships and the Authority's evidence, rather than general descriptions;
- disregard Rights of Way observations that concern works outside the alleged breach; and
- allow the appeal under ground (f), or vary the notice under section 176, to the extent necessary to ensure that its requirements are confined to a proportionate remedy for the operational development and injury actually established.

## **Authorities referred to**

- Town and Country Planning Act 1990, sections 174(2)(f) and 176.
- Planning Inspectorate, Enforcement Notice Appeals Procedural Guide England, updated 22 April 2026, paragraphs 4.1.1 and 9.2.10.
- National Planning Policy Framework, August 2026, policies N4 and HE4 to HE6, and Annex A paragraph 1.