



The Planning Inspectorate

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

Your Ref: NYM/2019/0700/FL
Our Ref: APP/W9500/D/20/3247761

24 July 2020

Dear Mrs Strangeway,

Town and Country Planning Act 1990
Appeal by Mrs Allison Calvert
Site Address: Grove Cottage Thorpe Bank, Fylingthorpe, WHITBY, YO22 4UA

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

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.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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,

Vicky Williams

Vicky Williams

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>



Appeal Decision

Site visit made on 14 July 2020

by **M Seaton DipTP MRTPI**

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

Decision date: 24 July 2020

Appeal Ref: APP/W9500/D/20/3247761

Grove Cottage, Thorpe Bank, Fylingthorpe, Whitby, YO22 4UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs Alison Calvert against the decision of North York Moors National Park.
- The application Ref NYM/2019/0700/FL, dated 9 October 2019, was refused by notice dated 4 December 2019.
- The application sought planning permission for alterations and construction of two storey side extension following demolition of lean-to and conservatory, together with demolition of existing outbuildings, construction of garage and new vehicular access without complying with conditions attached to planning permission Ref NYM/2019/0347/FL, dated 3 September 2019.
- The conditions in dispute are Nos 2 and 8 which state that:
 - 2) *The development hereby permitted shall not be carried out other than in strict accordance with the following documents:
Proposed plans & elevations, P-01 Rev P6 dated 7/08/2019,
Proposed visibility splays & sections, P-02 Rev P5 dated 7/08/2019
Proposed garage details, P-03 Rev P2 dated 7/08/2019
Proposed street scene, P-04 Rev P1 dated 7/08/2019
or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority.*
 - 8) *No work shall commence on the construction of the replacement front boundary wall hereby permitted until details of the brick, including samples if so required by the Local Planning Authority, to be used for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The brick used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.*
- The reasons given for the conditions are:
 - 2) *For the avoidance of doubt and to ensure that the details of the development comply with the provisions of NYM Core Policy A and NYM Development Policy 3, which seek to conserve and enhance the special qualities of the NYM National Park.*
 - 8) *For the avoidance of doubt and in order to comply with the provisions of NYM Core Policy A and NYM Development Policy 3 which seek to ensure that building materials are of a high quality and compatible with the character of the locality and that the special qualities of the National Park are safeguarded.*

Decision

1. The appeal is allowed and planning permission is granted for alterations and construction of two storey side extension following demolition of lean-to and conservatory, together with demolition of existing outbuildings, construction of garage and new vehicular access at Grove Cottage, Thorpe Bank, Fylingthorpe,

Whitby, YO22 4UA in accordance with the application Ref NYM/2019/0700/FL, dated 9 October 2019, without compliance with condition numbers 2 & 8 previously imposed on planning permission Ref NYM/2019/0347/FL, dated 3 September 2019, but subject to amended replacement conditions, and the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and as set out in the Annex.

Background and Main Issue

2. The 2019 planning permission (LPA Ref. NYM/2019/0347/FL) incorporated a two-storey side extension to the existing dwelling, a new boundary wall and a separate garage outbuilding. The extension and outbuilding are to be constructed in stonework whilst the boundary wall was required to be completed in red brick. However, the appellant has now expressed a preference that the boundary wall should also be completed in stonework to tie all the proposed elements together.
3. The main issue is whether the conditions are reasonable or necessary in order to preserve or enhance the character or appearance of the Fylingthorpe Conservation Area.

Reasons

4. The appeal site is occupied by a semi-detached dwelling situated on the north side of Sledgates. An existing outbuilding is set to the west of the dwelling and incorporates a red brick wall set directly on the road frontage.
5. The property lies within the Fylingthorpe Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. This is also reflected in the approach set out within the National Planning Policy Framework (the Framework).
6. The Conservation Area is characterised by high quality buildings finished in the local architectural vernacular, which is notable particularly in the form of stone-built cottages and houses facing directly on to the road. Dwellings are also characterised as being set back behind shallow front gardens bound by stone walls on to the highway or pavement.
7. Despite the walls of the existing dwelling having been painted they are all finished in stonework, except for the front wall of the house which is faced in red brick. I note that the effect of the 2019 planning permission is that the painted red brick of the front elevation, which it is indicated was not an original finish to the dwelling, would also be returned to stonework to match the materials of the proposed extension.
8. I have carefully considered the Council's submissions regarding Grove Cottage being a multi-phased building, where the significance and development of the building is derived in the presence of the existing brickwork structure alongside the stonework of the main building. However, I disagree that the approach of using brickwork and stonework to demonstrate the development of Grove Cottage should be equally applicable to the boundary walls fronting the highway. This is particularly the case where part of the significance of the Conservation Area is quite clearly derived from the stone walls bounding the curtilages of properties where they front on to the highway.

9. From my observations of the Conservation Area, whereas there is clear evidence of extensions to other buildings having been completed in a variety of materials demonstrating the significance and development of individual properties, the introduction of a red brick boundary wall would appear as an uncharacteristic anomaly within the heritage asset, which would not preserve its significance. Conversely, the use of stone would assimilate with the wider completed development and would accord with the prevailing character of the Conservation Area.
10. For the above reasons, I am satisfied that the proposed development would preserve the character and appearance of the Conservation Area, and that the existing conditions would not be reasonable or necessary, subject to the imposition of replacement conditions. I do not find there to be conflict with Section 72 of The Act or Core Policy G and Policies 3, 4, and 19 of the North York Moors National Park Core Strategy and Development Policies 2008. The Development Plan policies seek to ensure that the character and appearance of historic assets including Conservation Areas is preserved or enhanced, and that a high standard of design and use of materials compatible with the character and form of the host and surrounding buildings is utilised which reflects or complements that of the local vernacular.

Conclusion

11. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
12. The Council has referred me to the original conditions on the 2019 planning permission, which I have re-imposed in their entirety as being reasonable and necessary, subject to the necessary amendments to Condition 2 regarding the identification of plans, and Condition 8 regarding details of the stonework, the latter which I consider would be necessary in the interests of preserving the character and appearance of the heritage asset.
13. However, whilst I have no evidence before me to suggest that any of the other conditions have in fact been discharged, in the event that some of the conditions have, this is a matter which can be addressed by the parties.
14. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

M Seaton

INSPECTOR

Annex

Conditions

1. The development hereby permitted shall be commenced before the expiration of three years commencing from 3 September 2019.
2. The development hereby permitted shall not be carried out other than in strict accordance with the following documents:

Proposed plans & elevations, Dwg No: P-01 Rev P7, received 9/10/2019

Proposed visibility splays & sections, Dwg No: P-02 Rev P5, received 7/08/2019

Proposed garage details, Dwg No: P-03 Rev P2, received 7/08/2019

Proposed street scene, Dwg No: P-04 Rev P2, received 9/10/2019

or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority.
3. All new stonework and roofing tiles used in the development hereby permitted shall match those of the existing building, including the colour and texture of the stone and the method of coursing, pointing, jointing and mortar mix unless otherwise agreed with the Local Planning Authority.
4. All new window frames and glazing bars to be installed in the front (roadside) elevation of the development hereby approved shall be of timber construction, and trickle vents shall not be incorporated into any of these new windows, unless with the prior written consent of the Local Planning Authority.
5. All pointing in the development hereby permitted shall accord with the following specification - a lime mortar mix of 1:2½ (lime; sand (sand mix of 50% sieved sharp sand and 50% builders sand) with a slightly recessed bagged finish.
6. The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilised in the development and shall thereafter be so maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
7. The rainwater goods utilised in the development hereby permitted shall be coloured black and shall thereafter be so maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
8. No work shall commence on the construction of the replacement front boundary wall hereby permitted until details of the stonework, including samples if so required by the Local Planning Authority, to be used for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The stonework used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.
9. Prior to any works commencing in relation to the re-location of the proposed access, unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site

have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

- i) The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.
- ii) The existing access shall be improved by providing a footway crossing repositioned as shown on the approved details and constructed in accordance with standard detail E6W. The narrow footway downhill of the access shall be extended to the revised location of the access.
- iii) That part of the access extending 6 metres into the site from the carriageway of the existing highway shall be at a gradient not exceeding 1 in 10.
- iv) The final surfacing of any private access within one metre of the public highway shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority

10. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 20 metres looking uphill and 26 metres looking downhill measured along both channel lines of the major road Thorpe Bank from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 1.05 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
11. Prior to any works commencing in relation to the re-location of the proposed access full details of the following shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:
 - i) New position for street lighting column.
12. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 2:
 - i) have been constructed in accordance with the submitted drawing P-02 Rev 5
 - ii) are available for use unless otherwise approved in writing by the Local Planning Authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
13. Within 6 months of the development hereby being first brought into use, the replacement front boundary wall shall be constructed and completed in accordance with the approved plans.
14. Prior to works commencing on the demolition of the outbuildings and conservatory, measures shall be put in place (such as sediment traps) to ensure whilst building works are underway, sediments are captured and prevented from being washed into the beck.