

**Planning Inspectorate Reference: APP/W9500/W/20/3250668
APP/W9500/W/20/ 3250669**

**Local Planning Authority Reference: NYM/2019/0704/FL
NYM/2019/0706/LB**

**North York Moors National Park Authority
Town and Country Planning Act 1990**

Appeal by: Timothy Knight

Against: Refusal of planning permission and Listed Building consent for installation of replacement roof tiles, windows, doors, door surround and guttering, painting of external render and internal alterations

Location: 3 Bloomswell, Robin Hoods Bay

**Local Planning Authority's Response to Woodhall Planning & Conservation
Appeal Statement**

Introduction

1.0 These comments are made in response to the two statements submitted in support of appeals APP/W9500/W/20/3250668 and APP/W9500/W/20/3250669, one of which was produced by Woodhall Planning and Conservation titled Appeal Statement - Heritage and the other produced by Restek and titled Grounds of Appeal. This response will address the points made in both statements.

Response

Internal Porch

- 2.0 The Restek statement argues that the removal of the internal porch has no impact on the special historic or architectural interest of the listed building as the statement provided by Woodhall Planning and Conservation concludes that the porch was likely to have been a modern addition and therefore its removal was not contrary to any Local Plan or national policy.
- 3.0 The NPA disputes Woodhall's statement that the internal porch may have been a modern addition of no historic or architectural significance. The two main reasons provided for Woodhall's assessment of the porch as a modern addition are that some of the internal porches within the Bloomswell terrace are set parallel to the south entrance of the property, whilst number 3 Bloomswell's porch was set at an

angle; and that the applicant stated that the concrete floor inserted into the property in the 1990s extended below the internal porch. The Authority will respond to these points in turn.

- 4.0 Of the 9 properties within the Bloomswell terrace, only two properties contain internal porches set parallel to the southern entrance. These are numbers 4 and 7 Bloomswell. The internal porch within number 8 Bloomswell is set at an angle in a similar style to 3 Bloomswell (Appendix 1). Furthermore, this style of internal porch is also a feature within the Esplanade terrace which was constructed around the same time and runs parallel to the Bloomswell terrace. Two of the properties within the Esplanade terrace contain internal porches set at an angle to the southern entrance in the same style as the porches within 8 Bloomswell and 3 Bloomswell prior to its removal (Appendix 2). The NPA would argue that there are sufficient examples of internal porches being set at an angle within the Bloomswell and Esplanade terraces to suggest that this arrangement was an original feature and that the two examples highlighted by Woodhall's are a result of repair and/or reconstruction over the years. This conclusion is supported by Woodhall's acknowledgement that the internal porch within number 4 Bloomswell is very clearly a modern replacement (Appendix 3) rather than a reliable representation of the original porch.
- 5.0 The Woodhall statement also refers to the fact that, according to the applicant, the concrete floor inserted into the property circa 1996 extended below the porch. Whilst no evidence has been provided to support this statement, the NPA does not dispute that this may have been the case; however it is not proof that the porch was not original. When investigating the removal of a concrete floor in 9 The Esplanade, the NPA were able to photograph the internal porch which remained in situ, despite the removal of the floor, as the porch was not fixed to the floor (Appendix 4). It seems highly likely that the porch within 3 Bloomswell was similar to the porch in 9 Esplanade in that it was constructed with the frame set into the walls and ceiling of the property, rather than into the floor, making it possible for a concrete floor to be laid beneath the porch.
- 6.0 Evidence of the historic and architectural significance of the internal porch can be seen in the fact that the panelling to the porch was very similar to the panelling found elsewhere in the ground floor room (Appendix 5) suggesting, that like the panelling, the internal porch was a historic feature of aesthetic and evidential significance.
- 7.0 Woodhall's assessment of the internal porch concludes that the previous owners stated that they had inserted this porch c. 1996 to enable the lower ground floor room to be used as a bedroom. The NPA has received no correspondence from the previous owner confirming this, there is no listed building consent for this work, and no evidence has been provided to support this statement.
- 8.0 Furthermore, it is important to note that features within Listed Buildings do not need to be original in order to be considered of special architectural or historic interest and the NPA would argue that even if the appellant provided evidence that the

porch removed from 3 Bloomswell was not original, it was still of special architectural interest and as such its removal is not supported by Section 16, Planning (Listed Buildings and Conservation Areas) Act 1990. It has been demonstrated above that the internal porch at 3 Bloomswell was constructed in the style and design of other porches within the Bloomswell and Esplanade terraces and closely matched the panelling found elsewhere in the property and even if it was a later replacement it would therefore be considered a sympathetic reconstruction of a lost historic feature that would have previously stood there and made a positive contribution to the significance of the building. Either way, the porch was of evidential importance for understanding the historic plan form and design of the ground floor room, especially its perception from the principal entrance. It is also significant in appreciating the aesthetic and architectural special interest of the property and the listed terrace as a whole.

Door Surround

- 9.0 The Restek statement does not dispute the NPA's assessment of the removal of the door surround as less than substantial harm to a designated heritage asset, but argues that this harm was justified in order to avoid 'substantial' damage to the property. The statement goes on to agree with the NPA's conclusion that the replacement door surround is less finely detailed than the previous, but proposes that this issue be managed through conditions subject to the approval/consent of the door surround. These points will be addressed below.
- 10.0 As previously highlighted within the NPA's Appeal Statement, no evidence has been submitted to support the applicant's claim that the door surround was beyond repair. Restek's assessment that the previous door surround was in so poor a state of repair that only its total replacement could avoid potential substantial damage to the property is based on the applicant's claim that the surround was constructed of softwood and had decayed, however no evidence has been provided to support this claim, and as such this is not considered to be clear and convincing justification for less than substantial harm to a listed building.
- 11.0 The NPA also questions the Restek conclusion that there would have been 'substantial' damage to the property had the door surround not been replaced. Neither the Restek nor the Woodhall statement outline what actual damage may have occurred if the surround had not been replaced. It is stated that the two surveys of the property commissioned by the applicant prior to his purchase of 3 Bloomswell identified damp within the walls and ceiling of the property, however it is not stated that the door surround was in any way connected with this issue. As the applicant has never provided a copy of either survey report, it is felt that this claim is neither clear or convincing and is therefore not considered to be satisfactory justification for the total replacement of a feature that was of special historic and architectural interest.
- 12.0 Woodhall state that it is apparent that the surround had undergone extensive alterations and that the absence of the moulded base in 2019, evident in earlier

photographs, suggests ongoing decay and alterations to the surround. The NPA does not dispute that the historic door surround has likely undergone a number of minor alterations and repairs over the years, such as those highlighted within the Woodhall statement, however this is not considered to be clear evidence of the need for the entire surround to be replaced.

- 13.0 It is regrettable that the moulded bases evident in the Authority's 2006 photograph of the surround were replaced at some point prior to June 2019, however this was an unauthorised alteration to the Listed Building and therefore the NPA would not have supported the replication of this feature on any new or altered surround. Furthermore, the fact that the bases were altered at some point in the last 13 years is not considered to be clear evidence that the entire surround was suffering from decay. As the reason for the alteration to the bases is not known, the NPA feels that the absence of the moulded bases cannot be used as evidence that the entire surround was decayed and beyond repair.
- 14.0 The NPA does not feel that the replacement surround was of a suitably high standard of design to be considered an acceptable alternative to a like for like replacement of the previous surround, if indeed the surround needed to be replaced. As outlined within the NPA's Appeal Statement, the replacement surround is less finely detailed than the previous surround, a conclusion that is supported by the Restek statement which recommends that the design of the surround be amended through conditions subject to the approval/consent of the application.
- 15.0 The NPA approached the applicant in December 2019 regarding concerns about the design of the door surround and door, however the applicant refused to consider any amendments to the design of the features that he had already had installed in the property. The Authority received no further correspondence from the applicant following this response, and it was therefore not possible to negotiate any amendments to the design of the surround with the applicant. As such, the refusal of the surround was based on the design set before the Authority at the time of the decision which was, as acknowledged by Restek, less finely detailed than the historic surround it replaced. The replacement door surround was therefore not in accordance with Strategic Policy I which states that 'All developments affecting the historic environment should make a positive contribution to the cultural heritage and local distinctiveness of the National Park through the conservation and, where appropriate, enhancement of the historic environment.' As the replacement surround is of a poorer standard of design than that which it replaced, it cannot be considered to conserve or enhance the historic environment.
- 16.0 The NPA objected to the design of the replacement surround not only because it was less finely detailed than the previous, but because the design was inappropriate for this particular property and not in accordance with Policy ENV11 which seeks to ensure that development affecting the built heritage of the NYM should reinforce its distinctive local character by fostering a positive and sympathetic relationship with traditional local architecture, materials and construction. ENV11 goes on to state that development proposals will only be

permitted where they conserve, enhance or better reveal elements which contribute to the significance of the heritage asset.

- 17.0 The Woodhall statement identifies the significance of 3 Bloomswell as being 'Its historic interest as a former fisherman's cottage and simple form in contrast to the larger buildings to the east and west'. The NPA agrees with this assessment of the character of the property and therefore feels that the large, prominent and overly formal replacement door surround is not sympathetic to the simple form of this modest fisherman's cottage.
- 18.0 Whilst some elements of the replacement surround have been taken from details found on the previous surround or other surrounds within the terrace, these are either less finely detailed than the features they are seeking to replicate, or have been based on inappropriate and unauthorised alterations and should therefore not be used to set a precedent. These features include the block bases on the surround and the thick beading on the pediment which, although apparent on the previous pediment, appears to have been a later addition to the surround, and has been formalised by the replacement surround with a much thicker and more prominent style of beading.
- 19.0 The NPA acknowledges that the previous door surround differed from the other surrounds within the terrace; however its fine detailing and historic character meant that it possessed aesthetic and historic value and as such contributed to its significance. Its replacement with a less finely detailed and inappropriately designed alternative is considered to constitute less than substantial harm to the significance of the Listed Building.

Front Door

- 20.0 The Restek statement argues that clear and convincing justification has been provided for the replacement of the front door as it was considered to be too thin to function safely as an external door and because the applicant stated that the door was made of softwood and had twisted out of shape.
- 21.0 Evidence for the door's poor state of repair is said to be contained within two surveys of the property that the applicant had carried out prior to his purchase of 3 Bloomswell. However, the NPA has not received a copy of either survey nor received any photographic evidence of the decay within the door. When viewed by the Authority the door appeared to be relatively sound and not beyond repair. Furthermore, as highlighted within the NPA's Appeal Statement, the applicant claimed that the door was only beyond economical repair, not that repair was impossible. The NPA would therefore argue that verbal communications from the applicant regarding the condition of the door cannot be considered to be clear and convincing justification for the removal of the door.
- 22.0 The second justification provided for the removal of the door is that it was considered to be too thin to provide adequate security to the property. As previously highlighted within the NPA's Appeal Statement, the door had functioned as the front

door to the property for a number of years without incident and furthermore, additional security had previously been provided by the internal porch. As such, the NPA feels that concerns over the level of security provided by the front door cannot be considered clear and convincing justification for its removal, especially when the applicant has simultaneously removed a feature that provided additional security to the property. From the information provided by the applicant, there does not appear to have been any consideration as to whether sympathetic alteration such as replacement locking mechanisms had been considered rather than replacement of the entire door.

- 23.0 The replacement door is also less finely detailed than the door which it replaced, as acknowledged in the Restek statement which recommends that the beadings around the panels on the door be replaced and the door knob be relocated. As highlighted above, the applicant had previously refused to consider any amendments to the design of the door or door surround and as such, both applications were decided based on the designs set before the NPA at the time of the decision.
- 24.0 It is also acknowledged that the replacement door is taller than the previous door due to the absence of the 'blank panel' that sat above the previous door. The Woodhall statement concludes that the 'blank panel' was a result of the previous pediment being set higher than the other pediments within the terrace and not, as the NPA had argued, an indication of the previous location of a blocked fanlight. Whilst the NPA acknowledges that this may be the reason for the previous 'blank panel', it does not change the Authority's conclusion that the loss of the panel has resulted in the loss of evidence of the historic development and alteration of this property and as such, the taller front door causes less than substantial harm to the Listed Building without providing any public benefit.

Pink Paint

- 25.0 The Woodhall statement argues that the pink painted external doors is justified as there are a variety of coloured doors within the terrace and the NPA's Consultation Draft Conservation Area Appraisal for Robin Hoods Bay (October 2017) states that there are a number of brightly coloured timber doors within the village. Furthermore, the pink door at Rose Cottage, New Road, to the south of Bloomswell is considered to evidence the presence of brightly coloured doors within the Conservation Area.
- 26.0 The Bloomswell terrace dates from early-mid Nineteenth Century and is therefore of Victorian construction. The traditional Victorian colour palette was dark and consisted of dark, rich and deep shades of maroon, red, burgundy, chestnut, dark green, brown and blues. Pastel shades do not form any part of the Victorian palette. Instead they would use off-whites (never brilliant whites), creams and toned down versions of their strong colours. It is therefore considered that the pink used, is harmful to the architectural character of the property. Had the applicant engaged with the Authority, it is likely that a more sensitive colour could have been achieved which suited all parties.

- 27.0 It is important to note that Rose Cottage, New Road is not a Listed Building and as such the paint colour of this particular door was not subject to planning regulations. Furthermore, the visual impact of the door colour is reduced by the fact that it is only the door, and not the entire surround and door that are painted in a lighter shade of pink. This example is therefore not considered to be comparable to 3 Bloomswell where the entire door and surround of a Grade II Listed Building have been painted in a much brighter, more dominant shade of pink.
- 28.0 It is acknowledged that there are a variety of door colours within the terrace and indeed throughout the Conservation Area, however the brightest of these, such as the bright blue on number 8 Bloomswell, are unauthorised and contribute to a prevalent problem within Robin Hoods Bay of unauthorised and inappropriately painted windows and doors. The NPA has been working to tackle this issue through a grant scheme offered for the repainting of window and door frames in more traditional colours throughout the village. Due to budgetary restrictions, this scheme can currently only be offered to business owners rather than individual home owners, however it is part of a wider effort to tackle the deterioration of Robin Hoods Bay's Georgian/Victorian character through the use of overly bright and non-traditional paint colours.
- 29.0 Cumulatively the increasing use of 'seaside' and pastel colours is having a harmful impact on the Georgian/Victorian character of the Robin Hood's Bay Conservation Area and as such, the NPA has made a concerted effort to encourage the use of more traditional colours in developments within the Conservation Area. Where bright pastel colours are found in other areas of the country, these traditionally derived from lime washes and never existed as paint and were never used on joinery.
- 30.0 As highlighted within the NPA's appeal statement, the Authority is willing to work with the applicant to find a colour that his daughter would be comfortable with, that is also sympathetic to the character of the Listed Building and wider Conservation Area. The NPA would also recommend that this colour only be applied to the door itself, and that the surround be painted in a more muted colour as this two-tone appearance would be characterful and less striking when viewed in the context of the terrace.

Conclusion

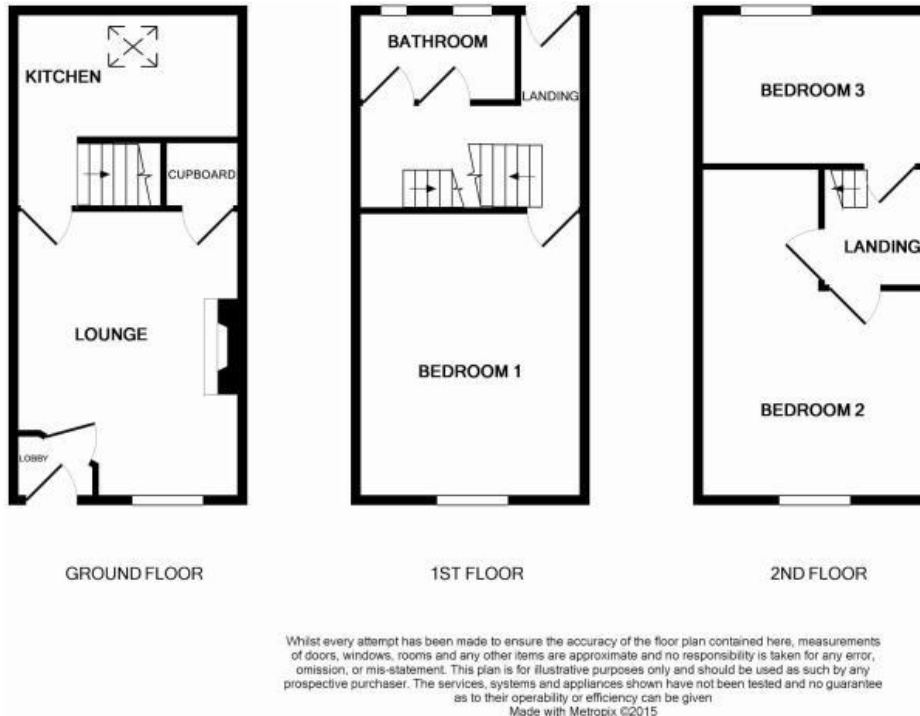
- 31.0 When considering these applications, the NPA was guided by the NPPF which only recognises three clear gradations of harm in heritage terms. These are substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. Even limited or negligible harm is enough to fall within the bracket of 'less than substantial harm'.
- 32.0 Whilst it is a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, it is equally the

case that there will be a number of types of harm that will fall into less than substantial harm, including harm which might otherwise be described as very much less than substantial. The NPA is clear in its judgement that the works contained within these applications amount to less than substantial harm and the statements prepared by Woodhall and Restek also conclude that harm has occurred, however perhaps to a lesser degree. As there is no intermediate bracket at the bottom end of the less than substantial harm category, even harm that is limited or negligible, but nevertheless has a harmful impact, must be considered within the category of less than substantial harm.

- 33.0 This important clarification of the law was given when the Court recently handed down judgment in *R.(oao James Hall and Company Limited) v City of Bradford Metropolitan District Council and Co-Operative Group Limited* [2019] EWHC 2899 (<https://www.kingschambers.com/assets/files/News/James%20Hall%20v%20City%20of%20Bradford.pdf>).
- 34.0 Having reviewed the Heritage Appeal Statement and the Grounds of Appeal Statement, the NPA is unchanged in its conclusion that clear and convincing justification has not been provided for the less than substantial harm caused to this Listed Building. Justification for all of the works has been based on the applicant's own assessment that the features he removed were either modern or beyond repair, however no evidence has been provided to support this. Furthermore, there is no justification or public benefit from the design of the replacement door and surround. It has been shown that the surround and door are not in accordance with Strategic Policy I as they neither conserve nor enhance the cultural heritage and local distinctiveness of the National Park nor do they provide any public benefit as required by Section 16 of the NPPF when the significance of a designated heritage asset is harmed.
- 35.0 Therefore, the NPA respectfully requests that the Inspector dismisses both appeals. However, should the Inspector be mindful to allow the appeals, it is requested that the conditions outlined within the NPA's Appeal Statement are imposed on any permission or consent. The NPA feels that these are standard conditions that the Authority would seek to impose on any development impacting the fabric of a Listed Building and can see no reason for the appellant to feel that these conditions are not appropriate.

Appendix 1

Appendix 1: 8 Bloomswell plan included in specification for property when sold in 2015 and photo of internal porch taken in June 2019.



Appendix 2

Photos of the internal porches at numbers 2 and 4 Esplanade, Robin Hoods Bay



Appendix 3

Modern internal porch replacement at 4 Bloomswell, Robin Hoods Bay



Appendix 4

9 Esplanade, Robin Hoods Bay with cement floor removed.



Appendix 5

Internal porch and matching panelling at 3 Bloomswell, Robin Hoods Bay.

