

North York Moors National Park Authority

Parish: Fylingdales

App No. NYM/2020/0375/LB

Proposal: Listed Building consent for internal alterations, installation of replacement door and reorganisation of pipework to front elevation, installation of 2 no. replacement rooflights and 3 no. replacement timber windows to rear elevation together with erection of replacement railings and non-lockable gate

Location: 10 The Esplanade, Robin Hoods Bay,

Applicant: Mr C Whiteley and Mrs A Graham
27 Levenside, Stokesley, TS9 5AR

Agent: Cheryl Ward Planning
5 Valley View, Ampleforth, York, YO62 4DQ

Date for Decision: 27 July 2020

Extended to: 30 October 2020

Director of Planning's Recommendation

Approval subject to the following condition(s):

1. Standard Three Year Commencement Date - Listed Building

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

2. Strict Accordance With the Documentation Submitted or Minor Variations - Document No.s Specified

The development hereby permitted shall not be carried out other than in strict accordance with the following documents:

Document Description	Document No.	Date Received
Application Form		01 June 2020
Location Plan		01 June 2020
Existing and Proposed Plans		01 June 2020
Heritage Statement		01 June 2020
Planning Support Statement		01 June 2020
Confirmation of non-lockable gate		29 June 2020
Email confirming further details		12 October 2020

or in accordance with any minor variation thereof that may be approved in writing by the Local Planning Authority.

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3. Exterior Paint Scheme

No work shall commence to paint the external joinery in the development hereby approved until a scheme for the painting of all external joinery has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed treatment for doors, windows, shutters, fences, stable doors and any other exterior joinery fixtures. The works shall not be carried out otherwise than in accordance with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.

4. No work shall commence on the installation or removal of any doors/ windows in the development hereby approved until detailed plans showing the constructional details and external appearance of all external doors/ windows and frames (and glazing if included) have been submitted to and approved in writing by the Local Planning Authority. Such plans should indicate, on a scale of not less than 1:20, the longitudinal and cross sectional detailing including means of opening. All doors/windows shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.

5. Trickle Vents Shall Not be incorporated into Windows

Trickle vents shall not be incorporated into any new windows hereby approved and shall not be installed thereafter unless otherwise agreed in writing with the Local Planning Authority.

6. Window Frames in Reveals - Specify Set Back

The external face of the frame to all new windows shall be set in a reveal of a minimum of 80mm from the front face of the adjacent walling and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.

7. All pointing in the development hereby permitted required for making good shall accord with a specification approved in writing by the Local Planning Authority, which includes mortar mix (based on a typical mix of a non-hydraulic quicklime mortar mixed at 1:3 (dry non-hydraulic quicklime: sand), method of application, finish and may include a sample area if so required by the Local Planning Authority. The pointing shall thereafter be so maintained unless otherwise agreed in writing by the Local Planning Authority.

8. No work shall commence on the installation of new or replacement plasterwork, cornice, limewash/paint finishes and insulation in the development hereby permitted until full details have been submitted to and approved in writing by the Local Planning Authority, which includes a traditional lime mix, method of application, finish, details of function and may include a sample area if so required by the Local Planning Authority. The plaster shall thereafter be so maintained unless otherwise agreed in writing by the Local Planning Authority.

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9. Works to the fireplace whose removal is hereby approved shall accord with the method statement supplied as part of this application which provides for the careful opening up of the existing fireplace, and for the investigation of the underlying fabric. Further written approval will be required to agree the extent of opening up and the final treatment of the fireplace depending on the extent and condition of the underlying historic fabric. The works shall be carried out in accordance with the approved details.

Informative(s)

1. Bats

All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 39(1) of the Conservation (Natural Habitats etc.) Regulations 1994. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and Natural England contacted on 0300 060 3900 for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and applies to whoever carries out the work. All contractors on site should be made aware of this requirement and given information to contact Natural England or the Bat Conservation Trust national helpline on 0845 1300 228.

Reason(s) for Condition(s)

1. To ensure compliance with Sections 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
2. For the avoidance of doubt and to ensure that the details of the development comply with the provisions of NYM Strategic Policy A and NYM Strategic Policy C, which seek to conserve and enhance the special qualities of the NYM National Park.
3. For the avoidance of doubt and in order to comply with the provisions of NYM Strategic Policy A and NYM Strategic Policy C which seek to ensure that the appearance of the development is compatible with the character of the locality and that the special qualities of the National Park are safeguarded.
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7. For the avoidance of doubt and in order to comply with the provisions of NYM Strategic Policy A and NYM Strategic Policy C 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.
8. In order to comply with NYM Strategic Policy I which seeks to protect the Park's most important historical components and encourage development that is consistent with maintaining the overall historic character of the National Park.
9. In order to comply with NYM Strategic Policy I which seeks to protect the Park's most important historical components and encourage development that is consistent with maintaining the overall historic character of the National Park.

Consultations

Parish -22 June 2020: No objections

29 June 2020: Fylingdales Parish Council now have concerns over the gate.

The path that the gate covers is not private, the path and steps are used to get to Belmont Place and Bloomswell and the Square. The gate will also block the path to other house's parking (Brickhills).

Council would like its previous comments to be discarded and an Objection put in on these grounds, it does not object to the rest of the planned works.

14 July 2020: The Council continue to object to the gate due to its obstruction of access on a public right of way.

Site Notice/Advertisement Expiry Date – 28 July 2020

Others –

Mr Patrick Holdsworth at 3 Thorpe Lane, Robin Hoods Bay, Whitby, YO22 4RN

20 June 2020 - I was SBC Village caretaker for Robin Hoods Bay from 1971 to 2007. The route up the steps to the Esplanade and Brickhills car park has been in constant use by residents of the village every day of my working life. It is a very important route. The status of the Esplanade as a public right of way was debatable until the Property Owners were offered the chance to have the concrete street brought up to the Conservation Area Standard of best flagstone about ten years ago, if they undertook to accept its use as a right of way. This was accepted by all and the costs borne by the public purse. If the new owners of No 10 (who have ticked the wrong box in the question on altering pedestrian access) wish to gate it, they would have to repay to the public purse the very large cost of resurfacing the street. And presumably meet any ongoing costs of repairing the street. Also the public utilities may well reclassify the street as Private and therefore not accept responsibility for the cost of repair

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maintenance and improvement to the utilities incurred along the street. The applicants should be asked to sign a legal document that they will not only reimburse the NYCC for the costs of surfacing the street, but also any cost incurred by No. 1-10 Esplanade for Utility work within the street boundaries.

30 July 2020 – Improvement grant may have been through NYMNPA Village Improvement Grant. The gate can't open out over the steps (dangerous and not meet building regs) and opening the other way is onto a highway. The Esplanade path from Bay Bank up to No. 10 is on NYCC Highways street map, which I bought when they had an office clear out. The steps are not marked as Highway. This gate is a very big issue because the Old Village is a highly rated Conservation Area, which in the experience of most residents is very poorly protected and is a very shabby and cluttered pastiche of what it should be, mostly because absent Cottage owners either want to block streets off, or fill with wheelie bins, or fill with flower tubs and seats everywhere to reinvent the village as a Chocolate Box image. The residents have spent lockdown weeding all the streets and overgrown shrubs ready for the visitors return and they did every last side street as they want people to wander round and enjoy the village, unlike a small proportion of newcomers who have bought a cottage in the middle of the densely packed community when they don't want anyone near them. The village street layout dates from the Sixteenth century, most of the freehold was either the Farsyde or Fylingdales Estate land; streets were not clocked off until the 1970s; it is a long way from Northallerton; so putting minor streets into an official protective status wasn't anyone's priority. Sometimes people get confused when the path above ground and the land underground are different owners.

Dr James Hollinrake at St Stephen's Bede House, Silver Street, Robin Hoods Bay, YO22 4SB

Objection to proposed gate across a right of way.

Mrs Lynn Aldridge at Keyhole Cottage, Sunny Place, Robin Hoods Bay, Robin Hoods Bay, YO22 4SA

I object to the gate, it is a right of way.

Mr Michael Bell at Mr., Friar's Cottage, 2 Tommy Baxter Street, Robin Hoods Bay, Nr Whitby, North Yorkshire, YO22 4RZ

Having reviewed the planning application, I remain unclear as to precisely what is intended with regards to any fencing along / across The Esplanade or gates being placed at any point other than directly into the garden area as currently. I raise this concern in relation to the potential for the obstruction of individuals, animals or the transfer of materials et cetera, either along the Esplanade or using the steps outside number 10 to access the car park, the North Bay, the picnic area, or the top of the old village without having to go along the main road. We have been using this route from Tommy Baxter Street (via the square) for over 25 years with children and dogs and it has always provided a safe route away from the road

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(and away from the hazards of even the main footpath down into the village at busy times). Whilst we can understand any new residents wishing to establish more privacy for the garden area, the proximity between pedestrians and dwellings is an intrinsic feature of Robin Hood's Bay and as just one example, Tommy Baxter Street runs between our cottage and garden area. There has been a progressive loss of established rights-of-way and footpaths through the village over the last 20 years and we would not wish to see this pattern become even more restrictive, particularly when this route is not only well utilised for a number of reasons, but is also particularly important from a safety perspective. As such, we would ask that no further obstacles such as gates are placed within this area and along this route.

John Gilbert at Lindale, Manor Rd, Robin hood bay, N Yorkshire, YO22 4RP

The path to the rear of this property must be by right of usage if not publicly owned a right of way. It is very well used not least by residents of the village and is an important thoroughfare for that part of the village and beyond. I have lived in the village for 37 years, known this path for 50 years and have never seen a gate on here or received any kind of challenge whilst using it.

Over the years far too many paths in the village have been blocked gated and privatised without challenge. This is the worst and most disruptive I have witnessed and I urge you to reject this part of the application.

Mrs Aileen C. M. Hollinrake 469 Chester Road, Hartford, Northwich, Cheshire, CW8 2AG

As a long time householder in Robin Hood's Bay, I object strongly to the proposed gate thereby preventing people walking freely along the full length of what is otherwise a public street.

I have personally used these steps since 1965 without hindrance and I have never known the path/steps to be blocked or public access to be prevented.

Although these steps are not a formal public right of way, they have been openly available to public access and a public right to pass over them for many years has developed without objection or question. I would respectfully request that this right of usage be allowed to continue. The street cuts out the steepest part of the hill climb for people wanting to get to the top. It also provides a safe way, avoiding the busy road, to get to the north beach.

The ginnels and alleyways of Robin Hoods Bay are among the main attractions that bring visitors to the Bay and on which the local tourist economy depends, especially when the tide is in and the beach is not accessible.

If you allow the practice of blocking off some streets/ alleyways, you could soon find there is less and less reason for tourists to come to the bay. Certainly it would give the impression visitors are not welcome.

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Mr Irving Foster at Corraline, Silver Street, Robin Hoods Bay, YO224SB

Object. We have lived permanently in Silver Street since 1990. Throughout that time my wife and I have made regular (if not daily) use of the right of way up these steps to access the Brickhills car park and the public facilities at Bank Top, including the Post Office, the Doctor's Surgery and the bus service to Whitby and Scarborough. A gate at the top of the steps would constitute an impediment to that access.

I have no objection to any of the other aspects of the Planning Applications, but wish to see that access maintained as an open and unhindered right of way.

I note that Section 10 (Pedestrian and Vehicle Access, Roads and Rights of Way) of the Planning Application incorrectly answer "No" to the questions 'Is a new or altered pedestrian access proposed to or from the public highway?' And 'Do the proposals require any diversions, extinguishment and/or creation of public rights of way?'

Mrs Carol Foster at Corraline, Silver Street, Robin Hoods Bay, YO224SB

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Mr Graham Kemp at Beacholme, Covet Hill, Robin Hoods Bay, Whitby, YO22 4SN

Object for the following reasons:

This has been a right of way for as far back as I can remember and is used by residents and locals to ferry shopping from the car parks to their cottages. Obstructing this will cause unnecessary hardship, having to stop and open the gate. The path along here has been paid for and maintained by the public purse and its use and access should be free from obstruction.

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The gate is clearly been put there to mark the new owner's curtilage and act as a deterrent to visitors, who normally pass through, unchallenged.

Robin Hoods Bay is akin to a stage set; it has very few residents left and its prosperity today is wholly due to the influx of visitors, wanting to see and take in the charm of this unique village. They love being able to walk through all the nooks and alleys, taking in the charm of the Bay's past. Allowing this gate to be put across a Right of Way will stop visitors exploring the village. If it is passed, I would hope the planning authority would insist on a sign – This is a Right of Way – Feel free to pass.

Once this gate has been given permission, it will pave the way for every other cottage owner to do the same, thus destroying the very charm people come here to absorb.

Mr Richard Nesling at Belmont, Mount Pleasant South, Robin Hoods Bay, YO22 4RQ

Object as many local people use the steps next to the property as part of a gentler alternative to Bay Bank. It concerns me that the proposed gate would be noy only a hindrance but also dangerous as you would have to step backwards on the steps to open it.

Linda Hartley at Belmont, Mount Pleasant South, Robin Hoods Bay, YO22 4RQ

Object as right of way for over 30 years. No need for gate. People use the steps all the time.



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**Background**

10 The Esplanade is a three storey, Grade II listed property. The building lies within the Robin Hood's Bay Conservation Area and dates to the early-mid Nineteenth Century. The property sits under a Welsh slate roof and is constructed of brick in English garden wall bond to the south (front elevation) and herringbone tooled ashlar stone to the north (rear) elevation. A small single storey extension projects from the north (rear) elevation and is rendered with a pantile roof. The original 16 pane timber sashes in the south (front) elevation were replaced in the later Nineteenth Century with 2 over 2 light timber sashes and the north (rear) elevation contains modern casement windows, however all fenestration appears to sit within the original openings.

There is no planning history for this property.

This application seeks listed building consent for internal alterations, the installation of a replacement front door and reorganisation of pipework to the front elevation, installation of 2 no. replacement rooflights and 3 no. replacement timber windows to the rear elevation together with the erection of replacement railings and gate, garden shed and associated landscaping works to the north (rear) of the property.

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Main Issues**Statutory Duties**

Section 16, paragraph 193 of the National Planning Policy Framework 2019 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Section 16, paragraph 194 of the National Planning Policy Framework 2019 goes on to state that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

The Authority has a statutory duty to protect Listed Buildings within the Park as they form part of the significance of the built and cultural heritage of the North York

Moors. These buildings represent a significant part of the history and culture of the National Park and their considerable importance, once lost, cannot be replaced.

The Authority has a general duty in respect of listed buildings in its exercising of planning functions as set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

NYMNPAs Policies

The most relevant policy contained within the North York Moors Local Plan to consider in relation to this application is Strategic Policy I (The Historic Environment).

Strategic Policy I 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.

Conclusion

The Building Conservation Officer advised that 10 The Esplanade embodies high levels of aesthetic, evidential and historic value, with medium levels of communal value despite the fact that some of the features have been eroded such as the windows to the rear and the front door. Internally features survive such as fire surrounds, cupboards and layout. On a whole the proposals are considered to be sympathetic to the building and its significance

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and incorporate the recommendations made at the pre-application stage and therefore this application is supported by the Building Conservation team.

Internal Alterations

The proposed works largely comprise the removal of modern sheet boards/panels from the ceilings and walls in order to reveal the surviving historic fabric. Method statements have been provided for the removal of the ceiling and opening up of the fireplace and provided the fireplace will be supported by acro props if it is without a lintel, no objections have been raised to these works.

A new opening is proposed on the second floor in order to provide access from the existing landing into the room referred to as 'Bedroom 3' on the northern side of the property. This will require the removal of the existing cylinder cupboard and addition of a new wall in the bedroom along with the creation of steps from the bedroom through the new opening into the landing and the insertion of a new internal door. The Building Conservation Officer has raised no objections to this proposal which is intended to allow occupants of 'Bedroom 3' access to the main family bathroom. It is therefore felt that this proposal would constitute less than substantial harm to the Listed Building and that the justification provided for this harm is clear and convincing as it will improve the use of the property

External Alterations

The replacement of the front door with a traditional six panelled timber door and reinstated rectangular fanlight is considered to be acceptable provided that constructional details are provided to the Authority for approval prior to the removal of the existing door. Similarly, the replacement of the 3 no. stormproof casement windows on the north (rear) elevation with traditional single glazed vertically sliding timber sashes of 16 panes is supported, provided that the constructional details of the windows, including their finish, are submitted to the Authority for prior approval.

The reorganisation of the pipework on the south (front) elevation is also supported and will enhance the character and appearance of the property and surrounding conservation area. The applicant has highlighted that the property consists of two pitched roofs with a valley gutter in the centre and that a rooflight and glazed panel are currently located on the north facing inner roof slope. This rooflight and glazed panel are unauthorised however, their replacement with Conservation rooflights from the 'Rooflight Company' is considered to be acceptable.

A number of objections have been received from third parties and the Parish Council to the proposal to erect a 900mm high non-lockable gate across the path to the north (rear) of the property. Objections have been centred on the obstruction of a public right of way, however the Local Highways Authority have confirmed that the path in question is not recorded as either a publicly maintainable highway or a claimed public right of way and that any access

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rights by others across this land would either be a private arrangement or would need to go through the process of claiming the route as a public right of way. As such, the Local Highway Authority raised no objections to this proposal.

Furthermore, a letter dated July 2007 from the NYMNPA to the previous owners of 10 The Esplanade confirms that whilst The Esplanade was re-paved under a Conservation Area grant provided by the NYMNPA, in accordance with the wishes of most of the residents, the footpath was not adopted by the County Highways Authority.

Concerns regarding the blocking off of one of the many snickleways/alleyways within Robin Hoods Bay are noted and understood, however the height and design of the proposed gate and associated fencing are considered to be appropriate and sympathetic to the main dwelling and it is therefore not felt that this proposal will have a negative impact upon the special historic or architectural interest of the Listed Building.

This application also proposes to erect a 1.5 metre long shed with a width of 1 metre and a height of 2.15 metres along with various landscaping works in the garden to the north of the property. The design, proportions and location of the proposed shed are considered to be acceptable and will not detract from the character and appearance of the Listed Building. The existing garden is very overgrown and therefore the proposal to provide 3 no. levelled areas finished in self-draining gravel is considered to be acceptable.

Overall, the proposals included within this application are considered to be of an acceptably high standard of design that shows consideration for the character and form of the original dwelling. The historic fabric within the building is to be retained and revealed wherever possible and where new features are proposed, these have been designed so as to be sympathetic to the Listed Building and will therefore not harm the special historic or architectural interest of the designated heritage asset.

For the reasons outlined above, this application is recommended for approval.

Pre-commencement Conditions

Condition(s) 3, 4, 9, 10, 11 and 12 are pre-commencement conditions and have been agreed in writing with the applicant/agent.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and recommended changes to the proposal including the use of cast iron Conservation style rooflights and amendments to the proposed paint finish so as to deliver sustainable development.