

# North York Moors National Park Authority

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Parish: Fylingdales

App No:  
NYM/2021/0042/CLLBNYM/2021/0042/CLLB

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**Proposal:** certificate of lawfulness for like for like re-roofing of Grade II Listed Building

**Location:** Avery House, Shell Hill, Robin Hoods Bay

**Applicant:** Mrs Gail Sherwood, 26 Hatherton Avenue, Cullercoats, North Shields, Tyne & Wear, NE30 3LG

**Date for Decision:** 05/03/2021

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## Director of Planning's Recommendation

That the Certificate of Lawfulness of Proposed Works is **APPROVED**

### **The Planning (Listed Buildings) (Certificates of Lawfulness of Proposed Works) Regulations 2014**

#### **CERTIFICATE OF LAWFULNESS OF PROPOSED WORKS**

The North York Moors National Park Authority hereby certify that on 21 January 2021 the works described in the First Schedule to this Certificate in respect of the Listed Building specified in the Second Schedule to this certificate and edged red on the attached plan, are lawful within the meaning of Section 26H(2) of the Planning (Listed Buildings and Conservation Areas Act 1990) as the works do not affect the character of the Listed Building as a building of special architectural or historic interest.

First Schedule: Certificate of Lawfulness for Proposed Works to a Listed Building comprising like for like re-roofing of Grade II Listed Building

Second Schedule: Avery House, Shell Hill, Robin Hoods Bay

#### Notes

1. This Certificate is issued solely for the purposes of Section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. It certifies that the development specified in the First Schedule taking place to the Listed Building specified in the Second Schedule are lawful on the specified date and thus, is not liable to enforcement action under Section 38 of the above Act on that date.
3. This Certificate applies only to the extent of the works described in the First Schedule above and to the Listed Building specified in the Second Schedule above and identified on the plan. Any works that are materially different from those described or which relate to other Listed Buildings may render the Owner or Occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the proviso in Section 26H(5)(a) of the Act, which states that the lawfulness of works for which a Certificate is issued are to be conclusively presumed to be lawful provided they are carried out within 10 years beginning with the date of the issue of the Certificate.

## Informative(s)

1. 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.
2. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx>. Further information on wildlife legislation relating to birds can be found at [www.rspb.org.uk/images/WBATL\\_tcm9-132998.pdf](http://www.rspb.org.uk/images/WBATL_tcm9-132998.pdf). If advice is needed please contact the National Park Authority's Conservation Department on 01439 772700 or [conservation@northyorkmoors.org.uk](mailto:conservation@northyorkmoors.org.uk).
3. Swift (*Apus apus*) populations are declining in the UK due to the loss of nest sites in roof spaces as old buildings are renovated or demolished. Swifts occupy nest sites between May and August, making little noise and causing no mess or smell. Swift populations can be supported by the inclusion of simple and affordable measures during building construction or renovation, such as purpose-made 'swift bricks' or the creation of small loft voids. Guidance can be found on the Swift Conservation website; <https://www.swift-conservation.org/> with additional swift box ideas from Action for Swifts; <http://actionforswifts.blogspot.com/search/label/nestbox%20design>

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**Background**

Avery House forms the end terrace of four properties along Shell Hill in the bottom part of Robin Hood's Bay and within the Robin Hood's Bay Conservation Area. The property is a Grade II Listed Building, listed in 1969, and consists of rendered elevations under a handmade pantile roof with white painted timber single glazed sash windows throughout. The property fronts onto Shell Hill while the rear elevation backs onto Fisherhead and as such the property is prominent within public views.

This application is for a certificate of proposed development to confirm that Listed Building Consent is not required for re-roofing. The application outlines the work to be undertaken which will consist of:

- Stripping the existing pantiles and coping stones and careful cleaning;
- New lead flashings to the gable wall;
- Reuse of existing battens;
- Laying of a breathable membrane;
- Re-laying of salvageable pantiles with any new being of a matching handmade pantile.

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**Main Issues**

A Certificate of Lawfulness of Proposed Works to a Listed Building formed part of the Enterprise and Regulatory Reform Act 2013 which made amendments to the Planning (Listed Buildings and Conservation Areas) Act 1990. This change allows for listed building owners to apply for a Certificate of Lawfulness of Proposed Works for works which do not affect the character of the listed building as a building of special architectural or historic interest as opposed to submitting a Listed Building Consent (LBC). These provisions came into force on 6th April 2014.

The certificate system only applies to proposed works. It is not possible to apply for a certificate after the works have been carried out. When a certificate is issued, works must be carried out within ten years.

No consultation or publicity is required in the legislation. Local planning authorities may choose to consult Historic England or specialist conservation bodies or to publicise an application.

A Certificate of Lawfulness of Proposed Works provides formal confirmation that proposed works of alterations or extension (but not demolition) of a Listed Building do not require Listed Building Consent because they do not affect the character of the Listed Building as a building of special architectural or historic interest (Section 26 H of The Planning (Listed Building and Conservation Area) (Act 1990).

The special interest of Avery House lies in its traditional construction, simple architectural features and use of traditional materials which together form a good example of the local vernacular and contributes to the local distinctive character of Robin Hood's Bay.

Although no inspection has been made of the roof timbers, the application does not seek to alter or replace any fabric other than selective replacement of defective pantiles. The proposed new pantile is of matching handmade construction. As such, it is considered that the work proposed is limited to what is reasonably necessary to make failing elements sound, thus following traditional conservation principles. It is therefore concluded that the work proposed would amount to 'maintenance and repair' and will not affect the special interest of the building and as such would not require Listed Building Consent.

Although this development is not required to comply with policy, it nevertheless meets the requirement of Section 16 of the NPPF and in particular paragraphs 192 and 193 which seeks to ensure new development makes a positive contribution to local character and distinctiveness and requires great weight to be given to the assets conservation.

The development would also meet the objectives of Strategic Policy I of the North York Moors Local Plan which seeks to ensure development affecting the historic environment makes a positive contribution to cultural heritage and local through the conservation and, where appropriate, enhancement of the historic environment – in particular the vernacular building styles, materials and the form and layout of the historic built environment.

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This is further endorsed by Policy ENV11 which requires development to reinforce distinctive historic character by fostering a positive and sympathetic relationship with traditional local architecture, materials and construction.

**Contribution to Management Plan Objectives**

Approval is considered likely to help meet Policies E5, E6 and E7 which seeks to ensure the built heritage of the National Park is conserved or restored and local materials, styles and building techniques are used in restoration.

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

The submission of this Certificate of Lawfulness of Proposed Works provides formal confirmation that the works proposed do not require listed building consent and can give all parties the certainty required to ensure that the works are to be carried out to appropriately, avoiding unauthorised works.