

# North York Moors National Park Authority

## Delegated decision report

**Application reference number:** NYM/2021/0969/CLLB

**Development description:** certificate of lawfulness for installation of 2 no. like for like replacement timber windows to south elevation of Grade II Listed Building

**Site address:** Millbrook, Chapel Street, Robin Hoods Bay

**Parish:** Fylingdales

**Case officer:** Miss Lucy Gibson

**Applicant:** Mr Jeff Davitt  
18 Cheltenham Avenue, Ilkley, West Yorkshire, LS29 8BN

**Agent:**

## 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 the 14 January 2022 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 installation of 2 no. like for like replacement timber windows to south elevation of Grade II Listed Building.

Second Schedule: Millbrook, Chapel Street, 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 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.

## Background

Millbrook is a Grade II Listed mid terrace cottage constructed of herringbone tooled sandstone under a red pantile roof, over three floors. The property is located on the eastern side of the Robin Hoods Bay Conservation Area and is accessed via a narrow covered passage to the south of Chapel Street. The National Listing Description describes Millbrook as having a mid-late C18 appearance, and possibly an older core. The property contains a mixture of casement, Yorkshire sash and vertically sliding sash timber windows.

Listed Building Consent was granted in March 2011 for a number of internal and external restoration and refurbishment works to the property including the rearrangement of some rooms, re-pointing and plastering works, replacing single glazing with double glazing in the dormer window and the installation of a Yorkshire sliding sash in the bathroom.

An application for a certificate of proposed development to confirm that Listed Building Consent was not required was approved in April 2021 for works to the coping stones, dormer window, roof timbers and re-roofing.

This application is for a certificate of proposed development to confirm Listed Building Consent is not required for works to replace two vertical sliding sash windows to the south facing elevation on the lower floor of Millbrook, Robin Hoods Bay.

## 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 proposed replacement windows on the lower floor of the south facing elevation of Millbrook will be an exact copy of the existing, utilising the same materials, design and mouldings including the use of single glazing and putty pointing.

The application includes a joiners report stating that the two windows are beyond repair due to extensive rot, and has included a method statement for the removal of historic glass from the current frames. Cross sectional details were provided on request. The Authority's Building Conservation team have confirmed that they have no objections to the proposals as they will help to conserve the special interest of the Listed Building.

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. 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.

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 199 and 200 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.

In conclusion, the proposed work would not require Listed Building Consent because the work would not affect or harm the character of the Listed Building as a building of special architectural or historic interest (The Planning (Listed Buildings and Conservation Areas) Act 1990)

#### 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 as the proposed windows will be an accurate copy of the existing, the works are not considered to affect the special architectural and historic interest of this Listed Building.