



The Planning Inspectorate

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Mrs F Farnell (Planning Administration Officer)
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

Your Ref: NYM/2005/0181/FL
Our Ref: APP/W9500/A/05/1190667
Date: 19 January 2006

Dear Madam

[Handwritten signature]
20 JAN 2006

TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY G & D M FEARN
SITE AT THE COACH HOUSE, HACKNESS ROAD, SCALBY, SCARBOROUGH,, YO13 0QY

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

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

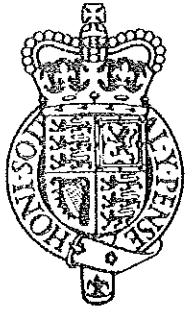
Phone No. 0117 372 8252
Fax No. 0117 372 8139
E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully

PP.P. Quinell

Mr Mike Dixon

COVERDL1



Appeal Decision

Site visit made on

4 January 2006

by **Ruth MacKenzie BA(Hons) MRTPI**

an Inspector appointed by the First Secretary of State

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Date 19 JAN 2006

SUMMARY

Appeal Ref: APP/W9500/A/05/1190667

The Coach House, Hackness Road, Scalby, Scarborough YO13 0QY

- 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 Mr G & D M Fearn against the decision of the Planning Authority of the North York Moors National Park.
- The application (Ref No NYM/2005/0181/FL, dated 15 March 2005) was refused by notice dated 10 May 2005.
- The application sought the variation of a condition attached to a planning permission Ref No NYM4/018/3000/PA dated 14 May 1992, for the conversion of a redundant stable block to a dwelling house and garage.
- The condition in dispute is No 5.

Decision: The appeal is dismissed.

MIN/2006/0181

20 JAN 2006

Background Information

1. The appellants would like to replace the timber windows of The Coach House with white uPVC windows.
2. Condition No 5 on the 1992 planning permission prevents them from doing this. It states: *The window and door frames of the development hereby permitted shall be of timber construction, painted and maintained white.*
3. The reason given for the condition is: *The local planning authority is anxious to ensure that the materials used will be in character with the materials in general use in the area.*

Main Issue

4. I consider that the main issue in this appeal is whether the use of uPVC windows would preserve or enhance the character or appearance of the Scalby Conservation Area.

Planning Policy

5. The development plan for this area includes the North Yorkshire County Structure Plan (SP), adopted in 1995; and the North York Moors Local Plan (LP), adopted in 2003. SP policy E1 requires developments in the National Park to have high standards of design,
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using appropriate materials that pay due regard to their setting. LP policy BE1 seeks to preserve or enhance the character and appearance of conservation areas.

Inspector's Reasons

6. The Scalby Conservation Area, which covers the centre of Scalby village, straddles 2 planning authorities: the North York Moors National Park, and Scarborough Borough. The Coach House lies within the part that is in the national park. Design standards within national parks are particularly stringent, as borne out by SP policy E1. The use of natural and traditional materials is a long-established principle. The government's recent *Planning Policy Statement 1: Delivering Sustainable Development* makes it clear that national parks should receive the highest level of protection.
7. There is a high boundary wall at the front of The Coach House. Nevertheless, from Hackness Road it is still possible to see some of building's ground floor windows, and all of its first floor windows on the front elevation. The building is only about 20m from the road and I consider that, if the windows were to be replaced by uPVC windows, the change would be noticeable to passers-by.
8. I have seen a photograph of the type of window that the appellants proposed to install and I accept that, superficially, the style reflects the style of the small-paned timber windows currently installed. But, even from 20m away, plastic windows with single sheets of glass divided by false glazing bars would look significantly different from timber windows with small panes separated by true glazing bars. The plastic window frames would be wider, flatter and smoother. Timber frames are generally narrower and more textured. Furthermore, separate panes of glass separated by functional glazing bars have more subtle reflective qualities than single panes of glass separated by false glazing bars.
9. In my opinion, the historic character of this impressive building would be eroded by its inappropriate windows. The building would look even less like a former stable block, and even more like a large new house. This would be harmful, both to the building itself and to the character of the conservation area and the national park.
10. The majority of the buildings in the conservation area have timber windows. Timber is the material that is most "appropriate to the locality"; a criterion of LP policy BE1. I accept that plastic windows have been installed in a few other buildings in the conservation area. Under current legislation, it is not always possible to control this. The examples that I looked at during my site visit merely reinforced my view that uPVC is an inappropriate material for this conservation area; it is neither natural nor traditional.

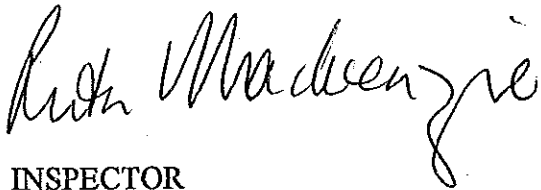
Conclusions

11. I have concluded that the installation of plastic windows at The Coach House would be contrary to LP policy BE1 because it would neither preserve nor enhance the character of the Scalby Conservation Area. The windows of The Coach House should continue to be constructed in timber, and painted white in accordance with Condition No 5 on the original planning permission. The condition is both reasonable and necessary, and I shall neither vary nor remove it.
12. In reaching my decision I have taken into account all the other matters raised. I do not accept that rotting timber is a good enough reason to replace windows with plastic ones.

Well-constructed and well-maintained timber windows can last for decades, as demonstrated by the many old buildings with timber windows in the village. The appellants have drawn my attention to the adjoining Low Hall Cottage. I consider it reasonable to suppose that its derelict condition is not permanent. In any case, detrimental alterations to a building cannot be justified by the dereliction of a neighbouring property. Neither these nor any other matters cause me to change my mind.

Formal Decision

13. I dismiss the appeal.


INSPECTOR

NMMNPA
20 JAN 2006



The Planning Inspectorate

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An Executive Agency in the Office of the Deputy Prime
Minister and the National Assembly for Wales

Our Complaints Procedures

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly-held.

The Quality Assurance Unit works independently of all of our casework teams. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms. We aim to give a full reply within three weeks wherever possible. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. Minor slips and errors may be corrected under Section 56 of the Planning & Compulsory Purchase Act 2004 but we cannot amend or change in any way the substance of an Inspector's decision.

Who checks our work?

The Government has said that 99% of our decisions should be free from error and has set up an independent body called the Advisory Panel on Standards (APOS) to report on our performance. APOS regularly examines the way we deal with complaints and we must satisfy it that our procedures are fair, thorough and prompt.



INVESTOR IN PEOPLE

Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"So what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds whether these views justify refusing planning permission.

"What do the terms 'Allowed' and 'Dismissed' mean on the decision?" – 'Allowed' means that Planning Permission has been granted, 'Dismissed' means that it has not.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. It can investigate and has discretionary powers to take action if a condition is being ignored.

Further information

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see 'Contacting us'). You can also obtain booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or on the ODPM website - www.odpm.gov.uk/

Contacting us

Complaints & Queries

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The Parliamentary Ombudsman

Office of the Parliamentary
Commissioner for Administration
Millbank Tower, Millbank
London SW1P 4QP

Helpline: 0845 0154033
Website: www.ombudsman.org.uk
E-mail: opca-enqu@ombudsman.org.uk



The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime
Minister and the National Assembly for Wales

Challenging the Decision in the High Court

Challenging the decision

Appeal decisions are legal documents and we cannot amend or change them once they have been issued. Decisions are therefore final unless successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful, you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal, it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65, you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Frequently asked questions

"Who can make a challenge?" - In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land - other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this - see Further Information).

"How much is it likely to cost me?" - A relatively small administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees - see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" - This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" - You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" - Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again, but for different or expanded reasons.

"What can I do if my challenge fails?" - The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices, by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey, it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Further information

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 2LL, telephone 0207 9476655; Website: www.courtservice.gov.uk/using_courts/guides_notices/notices/divis/

Council on tribunals

If you have any comments on appeal procedures, you can contact the Council on Tribunals, 81 Chancery Lane, London WC2A 1BQ. Telephone 020 7855 5200; website: <http://www.council-on-tribunals.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.

Contacting us

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The Parliamentary Ombudsman

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