



The Planning Inspectorate

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3/25 Hawk Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0117-3728629
Switchboard 0117-3728000
Fax No 0117-3728624
GTN 1371-8629

<http://www.planning-inspectorate.gov.uk>

Miss F A Ward (The National Park Officer)
N Yorks Moors N P Authority
The Old Vicarage
Bondgate
Helmsley
York,
YO6 5BP

Your Ref:

Our Ref: APP/W9500/E/01/1071060

Date: 5 December 2001

Dear Madam

PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990
APPEAL BY MS J MELLALIEU
SITE AT OCEAN VIEW, COVET HILL, ROBIN HOODS BAY, WHITBY, N YORKSHIRE, YO22 4SN

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:

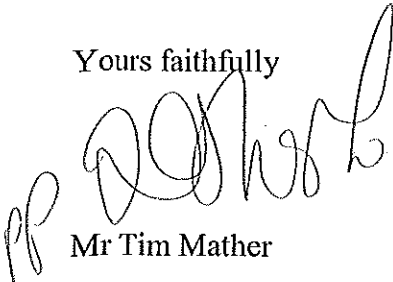
Quality Assurance Unit
The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252

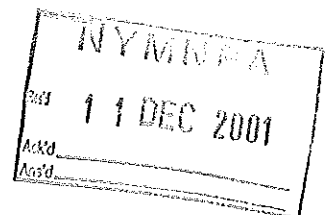
Fax No. 0117 372 8139

E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully


Mr Tim Mather

COVERDL1





Appeal Decision

Site visit made on 28 November 2001

by Denis F McCoy ARIBA FRTPI DipArch (Oxford)

an Inspector appointed by the Secretary of State for Transport,
Local Government and the Regions

The Planning Inspectorate
4/16
Temple Quay House,
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 8927

Date
05 DEC 2001

Appeal: APP/W9500/E/01/1071060

Ocean View, Coble Heads, Covet Hill, Robin Hoods Bay, Whitby, North Yorkshire
YO22 4SN

- The appeal is made under Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mrs Jean Mellalieu against North York Moors National Park Authority.
- The application (ref NYM4/029/0021D/LB) dated 10 January 2001 was refused by notice dated 29 March 2001.
- The works, which have already been carried out, are described as exterior repainting.

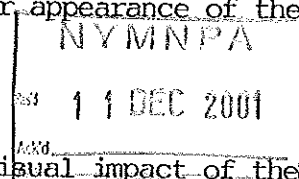
Summary of Decision: the appeal is allowed and listed building consent is granted.

Preliminary Points

1. Robin Hood's Bay is a particularly attractive village nestling in a cleft in the coastal hillside: it is designated a conservation area. Where the roads and paths of the village reach the sea there is a space called The Dock, which I would regard as the heart of the settlement. The appeal building is a substantial early to mid eighteenth century three-storey property with attic accommodation lit by dormers, and with a two-storey wing to one side. It looks over The Dock and being at a higher level is a prominent feature of the local scene. Since the works described in the application have already been carried out I am treating the appeal as one arising from an application made under section 8(3) of the above Act for their retention. In dealing with the matter I am required by section 16 of the same Act to have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses - and by section 72 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The Main Issue

2. I consider that the main issue in this appeal is the visual impact of the works, bearing these factors in mind.

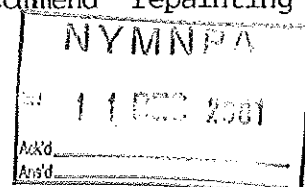


Planning Policy

3. The planning authority draw attention to the purposes of National Park designation and to the priority given by the North Yorkshire County Structure Plan to the conservation of its general amenity. They believe that the colour of the new paintwork is harmful to the character of the building and its setting. In withholding their consent for the works they refer to policy BC7 of the North York Moors Local Plan which provides that permission will only be granted for alterations to listed buildings where it can be shown that they would not have an adverse effect upon their character and fabric. A new local plan to cover the whole of the National Park is nearing adoption and reflects similar aims at policy BE3. I understand that there is no policy or guidance published by the planning authority relating to a preferred or recommended range of colours for this conservation area.

Reasons

4. The conservation area derives much of its character from robust masonry walls and red pantile roofs, and from the dramatic views and vistas resulting from the topography. Some of the buildings are rendered, or rendered in part, and most of these are painted or colourwashed. I saw also some painted brickwork and stonework, the bright white of what the appellant describes as the coastguard building between the appeal site and the sea being particularly striking. Several of the painted buildings have adopted a black and white decorative scheme, and those that I saw which have not are of paler colours than the appeal property. When first observed by the Council this was described as "pale yellow": to my eye it is quite a warm colour. Few of the other painted buildings are in as good decorative order as Ocean View and a number are distinctly shabby.
5. In their history of the site the Council record consent having been granted in 1985 for external rendering (to be painted in Sandtex Light Cream), for weatherproofing the walls, and for fitting rooflights and sliding sash windows. I am told the house was painted in 1991 and that over the years it faded to what the appellant describes as a creamy colour. She thinks the paint used this time is similar to what was applied in 1991, and that the contrast is due to that fading process which she anticipates will be repeated as time goes by.
6. While undoubtedly weather and light generally affect any paint finish over time it seems to me improbable that the yellow used recently could resemble closely any product described as "light cream". As the authority now say it has an intensity and colour saturation which make it stand out in a way that most pastel colours would not, and which they regard as self-evidently harmful. But the matter seems to me less clear-cut than that. So far as the impact upon the wider scene is concerned local opinion is, with a couple of exceptions, quite welcoming. The Parish Council when consulted had some concerns about the strength of the colour, but thought it not "so far out" as to recommend repainting and consequently did not object.



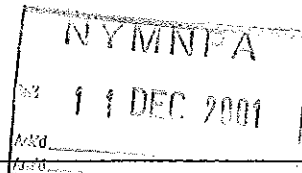
7. My own view was formed having seen the area on a dull day with the possibility of drizzle never far away, albeit with a few moments of wintry sunshine. In these conditions the present colour does give the building a certain presence but despite what the authority say I did not find it inappropriately assertive. Rather it seemed to me a focal point with an attractive and cheerful appearance. Mindful of the shabby buildings which I saw it does not surprise me that some have expressed support for what is an unconventional introduction to the local scene and after reflection I am drawn to the conclusion that what has been done has left the conservation area unharmed.
8. In defending their decision the authority draw attention to advice given in Planning Policy Guidance note 15 (PPG15). This identifies the particular sensitivity of wall surfaces at historic buildings, and advises that the existing fabric should be respected when they are altered or repaired - and matched in materials, texture, quality and colour. It is not entirely clear to me that this advice is of central relevance to changes of colour schemes where no other alteration is involved. The PPG also advises that in many cases the colour of a wall is less important than the first application of an unsuitable finish. In this instance it is not a traditional colourwashed surface which has been lost, for a modern masonry paint had already been applied to what the appellant tells me was previously unpainted render.
9. In any event despite various other changes made to it the appeal building retains a simple character. The Council describe its stone window cills and roof verge details as its main architectural adornments. In the absence of a stronger architectural style they consider the present colour gives the building an excessively contemporary appearance.
10. I find that an unconvincing argument. Though there seems to be no local tradition of using robust colours in Robin Hood's Bay it is clear that in the eighteenth century in many places quite solid colours, based for example on madder and ochre, were used on simple houses. Taking the appeal property in isolation I do not share the view that its special architectural interest is harmed by the particular hue of colour used. The presence of well maintained paintwork clearly contributes to its preservation, and while judgements of such matters must be subjective to a degree I do not accept that the colour I saw has had any adverse effect upon the character of the building. Consequently I see no policy conflict and consider that consent should be granted.

Conclusion

11. For the reasons given above and having regard to all other matters raised I consider that the appeal should succeed.

Formal Decision

12. In exercise of the powers transferred to me, I allow the appeal and grant listed building consent for the exterior repainting of Ocean View, Coble Heads, Cove Hill, Robin Hood's Bay, Whitby in accordance with the terms of the application No NYM4/029/00210/LB dated 10 January 2001 and the information submitted therewith.

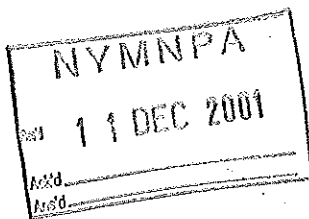


Information

13. This document does not convey any approval of consent which may be required under any enactment, bye-law, order or regulation other than Sections 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
14. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within six weeks from the date of this decision.



INSPECTOR



The Planning Inspectorate

RIGHT TO CHALLENGE THE DECISION

The attached appeal decision is final unless it is successfully challenged in the Courts. If a challenge is successful, the appeal decision will be quashed and the case returned to the Secretary of State for redetermination. It does not follow necessarily that the original decision on the appeal will be reversed when it is redetermined.

You may wish to consider taking legal advice before embarking on a challenge. The following notes are provided for guidance only.

Under the provision of section 288 of the Town and Country Planning Act 1990, or section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a person who is aggrieved by a decision may seek to have it quashed by making an application to the High Court on the grounds:

1. that the decision is not within the powers of the Act; or
2. that any of the 'relevant requirements' have not been complied with; ('relevant requirements' means any requirements of the 1990 Acts or of the Tribunals & Inquiries Act 1992, or of any order, regulation or rule made under those Acts).

The two grounds noted above mean in effect that a decision cannot be challenged merely because someone does not agree with the Inspector's judgement. Those challenging a decision have to be able to show that a serious mistake was made by the Inspector when reaching his or her decision; or, for instance, that the inquiry, hearing or site visit was not handled correctly, or that the appeal procedures were not carried out properly. If a mistake has been made the Court has discretion not to quash the decision if it considers the interests of the person making the challenge have not been prejudiced.

It is important to note that such an application to the High Court must be lodged with the Crown Office within 6 weeks from the date of the decision. This time limit cannot be extended.

An appellant whose appeal has been allowed by an Inspector should note that 'a person aggrieved' may include third parties as well as the local planning authority.

If you require further advice about making a High Court challenge you should consult a solicitor, or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London WC2 2LL. Telephone: 020 794 76000.

INSPECTION OF DOCUMENTS

It is our policy to retain case files for a period of one year from the date of the Inspector's decision. Any person entitled to be notified of the decision in an inquiry case has a legal right to apply to inspect the listed documents, photographs and

plans within 6 weeks of the date of the decision. Other requests to see the appeal documents will not normally be refused. All requests should be made quoting our appeal reference and stating the day on which you wish to visit, to:

Room 4/09 Kite Wing,
Temple Quay House, 2 The Square,
Temple Quay,
Bristol BS1 6PN

Please give at least 3 working days notice and include a daytime telephone number, if possible.

COMPLAINTS TO THE INSPECTORATE

Any complaints about the Inspector's decision, or about the way in which the Inspector has conducted the case, or any procedural aspect of the appeal should be made in writing and quoting our appeal reference, to:

The Complaints Officer,
Quality Assurance Unit,
Room 4/09 Kite Wing,
Temple Quay House, 2 The Square,
Temple Quay, Bristol BS1 6PN.

You should normally receive a reply within 15 days of our receipt of your letter. You should note however, we cannot reconsider an appeal on which a decision has been issued. This can be done following a successful High Court challenge as explained overleaf.

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (THE OMBUDSMAN)

If you consider that you have been unfairly treated through maladministration by us you can ask the Ombudsman to investigate. The Ombudsman cannot be approached direct; reference can be made to him only by an MP. While this does not have to be your local MP (whose name and address will be in the local library) in most cases he or she will be the easiest person to approach. Although the Ombudsman can recommend various forms of redress he cannot alter the Inspector's decision in any way.

COUNCIL ON TRIBUNALS

If you feel there was something wrong with the basic procedure used for the appeal, a complaint can be made to the 'Council on Tribunals', 22 Kingsway, London WC2B 6LE. The Council will take the matter up if they think it comes within their scope. They are not concerned with the merits and cannot change the outcome of the appeal decision.