



The Planning Inspectorate

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

Your Ref: NYM4/034/2554/PA
Our Ref: APP/W9500/A/02/1103164
Date: 14 March 2003

Dear Madam

**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY MR G AND MRS K HENDERSON
SITE AT THE ORCHARD, OPPOSITE THE OLD WOOD CARVERS COTTAGE, LITTLEBECK,
WHITBY, NORTH YORKSHIRE, YO22 5HA**

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

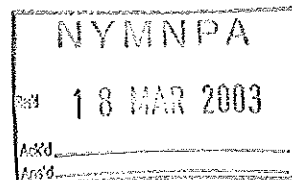
Phone No. 0117 372 8252

Fax No. 0117 372 8139

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

Yours faithfully

Mr Tim Mather



COVERDL1



Appeal Decision

Site visit made on 3 March 2003

by **Graham E Snowdon** BA BPhil MRTPI

an Inspector appointed by the First Secretary of State

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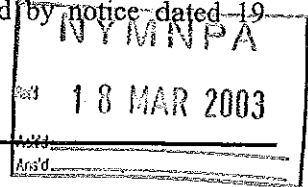
Date
14 MAR 2003

Appeal Ref: APP/W9500/A/02/1103164

“The Orchard”, opposite The Old Woodcarvers Cottage, Littlebeck, Whitby, Yorkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G and Mrs K Henderson against the decision of the North York Moors National Park Authority.
- The application ref: NYM4/034/2554/PA, dated 24 June 2002, was refused by notice dated 19 August 2002.
- The development proposed is a dwelling.

Summary of Decision: The appeal is dismissed.



Preliminary Matters

1. Neither the application form nor the Council's decision notice refers to the construction of the garage that forms part of the appeal proposals. For the avoidance of doubt I shall, in determining the appeal, describe the proposal as the construction of a dwelling and freestanding garage.

Main Issues

2. I consider the main issues at this appeal to be:
 - whether the proposal constitutes *infill* development for the purposes of development plan policy;
 - the effect that the proposal would have on the character, special qualities and distinctiveness of the village of Littlebeck and the wider landscape.

Development Plan and other Planning Policies

3. The development plan for the purposes of section 54A of the 1990 Act, as amended, comprises the North Yorkshire County Council Structure Plan (Structure Plan), approved October 1995, and the North York Moors Local Plan (Local Plan), adopted in November 1992. A revised version of the Local Plan (Revised Deposit Plan) was placed on deposit in March 2001 and was the subject of public inquiry in January 2002, with the Inspector's Report being issued in April 2002. In line with government advice, I have attached considerable weight to the provisions of this latter document.
4. Policy E1 in the Structure Plan states that in the North York Moors National Park there will be a presumption against new development except where it can be shown to be necessary in that location. High standards of design will be required and measures will be taken to protect and enhance the landscape, important buildings and other heritage features. This Policy and Local Plan Policy G2 conform with Government advice given

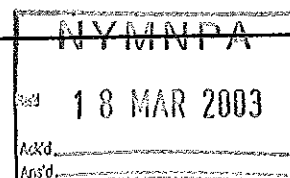
in Planning Policy Guidance Note No. 1 *General Policy and Principles* (PPG1) which advises that "particular weight should be given to the impact of development on existing buildings and on the character of areas recognised for their landscape or townscape value, such as National Parks...".

5. Policy H2 in the Local Plan states that no new housing development will be permitted in specified villages, including Littlebeck, except *infill development*, which is defined in Policy H3 as *the filling up of small gaps, capable of being developed for only one or two houses, in an otherwise continuously built up frontage*. The occupancy of such housing is to be limited to people with a local need, which is defined.
6. Policy H1 in the Revised Deposit Plan is similar, but also states that such development should be of a scale, design and density appropriate to the existing form and character of the settlement. Policy H2 in this Plan also allows for infill development on larger sites within the existing built up area of the specified villages for housing where the site is capable of development without an unacceptable impact on the environment, where the scheme is small in scale, of a density which ensures optimum use of the site to provide small scale housing and is designed to respect the character of the locality. In the accompanying text it is explained that such sites should maximise their contribution to the provision of local need by building at higher densities in line with government guidance in Planning Policy Guidance Note 3 *Housing* (PPG3). The policy also requires such infill development to comply with Policy BE12 by having no unacceptable impact on the visual, recreational, amenity, historical or cultural value of important undeveloped space within the settlement.
7. In its reason for refusal the National Park Authority also refers to Policy GP3 in the Revised Deposit Plan, which requires development, among other things, to respect or enhance the character, special qualities and distinctiveness of the locality and wider landscape.

Reasons

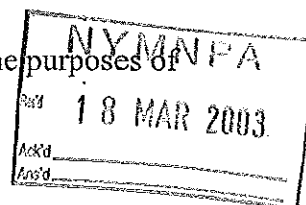
Whether the proposal constitutes infill development

8. Littlebeck is a small hamlet with a loose-knit structure of scattered buildings set into the hillside in a very steep and extensively wooded valley cut by the Little Beck. The appeal site is bounded on the southwest by the Beck, from which it slopes steeply to Littlebeck Bank which curves sharply round the site past a seating area and public viewing point on the Coast to Coast Route. It is currently used as a garden by the appellants who live in the *Old Woodcarvers Cottage* on the north side of Littlebeck Bank.
9. Being bounded by stream, roadway and, to the southeast, woodland, and with no buildings on either side, the site does not, in my view, constitute a small gap in an otherwise continuously built up frontage. It cannot, therefore, be considered as an infill site for the purposes of Local Plan Policy H2. I also do not consider that the proposed dwelling would constitute larger infill development under the terms of Revised Deposit Plan Policy H2.
10. Although not publicly accessible, the site, in my view, is an important open area in visual terms at the centre of the hamlet, providing the foreground setting for existing



housing on Littlebeck Bank, when viewed from the west. I note the argument advanced on behalf of the appellants that the proposed dwelling would be located towards the centre of the site, whilst the northern end, which is the most critical part of the site in views from the west, would remain open. However, in my view this does not adequately mitigate the impact of the loss of the open site as a whole.

11. In addition, although the proposed dwelling would be set into the hillside and much of it would be below the level of the adjacent roadway, it would also still have an impact on views across the valley from the public viewpoint, to which I have referred. The development of the site would, therefore, in my view, involve the loss of an important undeveloped space with visual and amenity value. This would conflict with the provisions of Revised Deposit Plan Policy BE12 and, therefore, criterion (4) in Policy H2 as well as criterion (1).
12. The dwelling proposed is a large one, with 4 bedrooms, a study and utility room with a detached garage. It would not, in my view, constitute small-scale housing for which Policy H2 is designed to cater, nor would it result in a density that would ensure the optimum use of what is a large site. It would not, therefore, meet the requirements of criterion (2) in Policy H2.
13. I conclude, on this issue, that the proposal would not constitute infill for the purposes of development plan policy.



Effect on character, special qualities and distinctiveness

14. What makes Littlebeck distinctive as a settlement is its loose open character and its valley setting, in which buildings are visually subservient to the heavily wooded landscape. The steep valley slopes and scattered location of the dwellings facilitate attractive and varied views into and out of the heart of the settlement centred round the ford. With the exception of the Old Mill and Mill Cottages, which have a historic functional link to the Beck, most of the buildings are set high above the Beck where they form skyline features or focal points within a mature landscaped setting.
15. I consider that the appeal site is an important open space visually with a significant role to play in maintaining the building-landscape relationships that contribute to the charm of the hamlet. In my view, the appeal proposal would disrupt those relationships and constitute a departure from the established pattern of development in the area. The steepness of the appeal site would also mean that any development here would inevitably involve substantial earth moving and re-profiling of the site. Whilst no evidence is before me to substantiate the claims that this might lead to problems of site stability, it would, in my view reinforce any visual disruption caused by the development itself.
16. I conclude, therefore, that the proposed development would neither respect nor enhance the character, special qualities and distinctiveness of the village of Littlebeck or the wider landscape and would be contrary to Structure Plan Policy E1, Local Plan Policy G2 and Policy GP3 in the Revised Deposit Plan.

Other Considerations

17. I note the changing family and health needs of the appellants that have led to the submission of the appeal proposals. Whilst understanding these, I do not believe that

they constitute sufficient justification, in themselves, for allowing a development that, in my view would otherwise be contrary to local planning policy on infill development and detrimental to the character of the area.

18. I have also read the press cutting regarding a development in Sneaton, to which the appellants have drawn my attention. I am not familiar with this site, and have not been provided with details of the proposal in question or the circumstances relating to its approval so can afford very little weight to it. Each proposal has, in any event, to be considered on its merits and this is the approach I have taken in this appeal.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

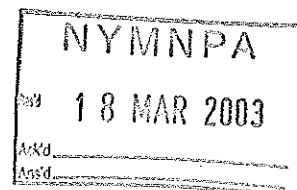
20. In exercise of the powers transferred to me, I dismiss the appeal.

Information

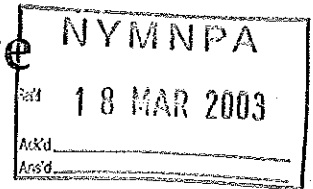
21. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

J. Emondson

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 & Inquires 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 Administrative Court 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 Administrative Court 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:

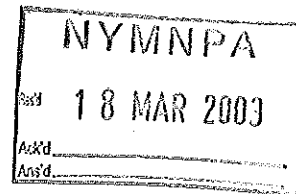
Room 4/09 Kite Wing,
Temple Quay House, 2 The Square,
Temple Quay,
Bristol BS1 6PN

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.