



# Appeal Decisions

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**Decision date:**  
**15 March 2010**

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## Appeal A Ref: APP/T9501/E/09/2113809

### **Carrow Brough, Humshaugh, Hexham, NE46 4DB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against the grant of listed building consent subject to conditions.
- The appeal is made by Mr G Benson against the decision of Northumberland National Park Authority.
- Listed building consent Ref 09NP0012LBC was granted on 20 May 2009 subject to conditions.
- The works proposed are alterations to existing farmhouse and conversion of attached farm buildings to visitor accommodation.
- The condition in dispute is No 4 which states that: "Notwithstanding the window shown on the submitted plans and elevations, prior to its installation full details of the means of providing an opening for light and ventilation into the bathroom in the north west corner of the house at first floor level, shall be submitted to and approved in writing by the local planning authority, and the opening shall subsequently be made in accordance with the approved details".
- The reason for the condition is: "To ensure the works are carried out in a manner consistent with the character of the building in accordance with Policy 18 of the Local Development Framework".

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## Appeal B Ref: APP/T9501/A/09/2113806

### **Carrow Brough, Humshaugh, Hexham, NE46 4DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr G Benson against the decision of Northumberland National Park Authority.
- The application Ref 09NP0011, dated 25 March 2009, was approved on 20 May 2009 and planning permission was granted subject to conditions.
- The development permitted is alterations to existing farmhouse and conversion of attached farm buildings to visitor accommodation.
- The condition in dispute is No 6 which states that: "Notwithstanding the submitted plans and elevations, prior to its installation full details of the means of providing an opening for light and ventilation into the bathroom in the north west corner of the house at first floor level, shall be submitted to and approved in writing by the local planning authority, and the opening shall subsequently be made in accordance with the approved details".
- The reason given for the condition is: "To ensure the works are carried out in a manner consistent with the character of the building in accordance with Policy 18 of the Local Development Framework".

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## Application for costs

1. An application for costs was made by Mr G Benson against Northumberland National Park Authority. This application is the subject of a separate Decision.
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## **Procedural Matter**

2. Although the appellant, by means of an email dated 11 August 2009, sought approval of details in respect of a window opening pursuant to conditions 4 and 6 of listed building consent Ref 09NP0012LBC and planning permission Ref 09NP0011 respectively, which were refused by a letter from the Authority dated 28 September 2009, I have proceeded on the basis that these are appeals against the conditional grant of permission, in line with the reasons given for the appeals by the appellant in the appeal forms and outlined in the Grounds of Appeal.

## **Decisions**

3. I allow Appeal A and vary the listed building consent ref. 09NP0012LBC for alterations to existing farmhouse and conversion of attached farm buildings to visitor accommodation, granted on 20 May 2009 by the Northumberland National Park Authority, by deleting condition No 4 and substituting for it the following condition:
  - 1) The first floor window in the north west corner of the works hereby authorised, shall be installed in accordance with the details shown on the approved drawing No. CB/09/EPE/09 and in the attachment to the email from Butler Haig Associates, submitted to the Authority on 11 August 2009.
4. I allow Appeal B and vary the planning permission ref. 09NP0011 for alterations to existing farmhouse and conversion of attached farm buildings to visitor accommodation, granted on 20 May 2009 by the Northumberland National Park Authority, by deleting condition No 6 and substituting for it the following condition:
  - 1) The first floor window in the north west corner of the development hereby permitted, shall be installed in accordance with the details shown on the approved drawing No. CB/09/EPE/09 and in the attachment to the email from Butler Haig Associates, submitted to the Authority on 11 August 2009.

## **Main issue**

5. I consider the main issue to be the effect that removing or varying the disputed conditions would have on the special architectural and historic interest of the listed building.

## **Reasons**

6. Listed building consent (LBC) and planning permission (PP) were granted for alterations to Carrow Brough, a Grade II listed building located within the Northumberland National Park.
7. It would appear that prior to the LBC and PP being determined, the Council had informed the appellant that it had concerns regarding the bathroom window asking for it to be deleted from the proposal as it was a matter that could warrant refusal of permission. This appears not to have been agreed to and the Authority issued conditional LBC and PP approvals which included the disputed conditions.

8. This I consider was in line with the advice in paragraph 2 of Circular 11/95 which states that if used properly, conditions can enhance the quality of development and enable many proposals to proceed where it would otherwise have been necessary to refuse permission. The disputed conditions did not make the development permitted substantially different from that comprised in the applications.
9. Nevertheless, as can be seen from the details in the Title Block above, LBC condition 4 and PP condition 6, although relating to the same item, are worded differently. This has given rise to confusion and I note the lengthy exchange of correspondence between the appellant and the Authority on this matter culminating in the Authority advising the appellant to submit window details to enable appeals to be made once their approval had been refused.
10. I consider that the use of different wording for conditions that relate to the same matter is confusing and in conflict with the test of precision as set out in Circular 11/95. Moreover, PP condition 6 seems capable of the interpretation that the window proposed, or one very similar to it, or perhaps one in a slightly different location, would meet with approval, subject to details. That, however, is obviously not what the Authority intended given the email to the appellant dated 18 May 2009 suggesting a roof light as a compromise and the officer's delegated report alluding to an alternative option to the window being explored. The condition is therefore not precise in itself.
11. Also, in LBC condition 4, the reference to "its installation" must, grammatically, be that of the window shown on the plans, even if the subsequent text might appear to be considering some sort of alternative provision. Again, that is not what the Authority intended and the condition is not precise. This confusion led to the appellant seeking clarification from the Authority resulting in an email dated 1 June 2009 which stated that the conditions were to enable him, if he so wished, to seek an alternative solution to the window.
12. Against this background I find that the disputed conditions fail to meet the tests of Circular 11/95 insofar as they are vague and lacking the precision necessary for the appellant to be able to ascertain what must be done to comply.
13. Furthermore, I do not consider the wall into which the proposed window would be inserted to be any more sensitive to change than the other parts of the listed building where the Authority has permitted alterations. While the wall may date from the 17<sup>th</sup> century, the loss of a small portion of masonry of around 1.06m<sup>2</sup> would not, in my opinion, be harmful to the special architectural and historic interest of the listed building.
14. I note the Authority favours a roof-light as a possible solution to providing natural light and ventilation to the bathroom but this would also involve intervention into and loss of fabric from the listed building. Given the number of roof lights already approved on this elevation it would, to my mind, have a visually dominant impact on the appearance of the listed building.
15. I therefore consider that a further window, carefully designed as part of an overall scheme of works (as shown on drawing No. CB/09/EPE/09) which would blend with the other windows that have met with approval, would not

be harmful to the special architectural and historic interest of the listed building. This would accord with the advice in paragraph 3.12 of Planning Policy Guidance 15; *Planning and the Historic Environment* which is echoed in the policies of the Local Development Framework. Consequently I find the disputed conditions to be unreasonable.

### **Conclusion**

16. The disputed conditions are vague, imprecise and unreasonable. They are unnecessary as the special architectural and historic interest would be unharmed by the insertion of the window as detailed on drawing No. CB/09/EPE/09 of the approved scheme and in the appellant's email to the Authority dated 11 August 2009. The conditions conflict therefore with the tests of Circular 11/95. Allowing the replacement of the disputed conditions with ones that permit the insertion of the window would accord with the advice in PPG15.
17. Therefore, for the reasons given above and having regard to all other matters raised in the representations, I conclude that the appeals should be allowed.

*Richard McCoy*

INSPECTOR