



Appeal Decision

Site visit made on 30 March 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 13 April 2026

Appeal Ref: APP/H2733/F/23/3327901

Land at 7 Bridlington Street, Hunmanby, Filey YO14 0JR

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) by the Planning and Compensation Act, 1990.
 - The appeal is made by Mr Harry Fell against a listed building enforcement notice issued by Scarborough Borough Council.
 - The listed building enforcement notice was issued on 13 July 2023.
 - The contravention of listed building control alleged in the notice is the painting of the exterior of the Building in a non-white (beige Colour) paint.
 - The requirements of the notice are to:
 1. Remove the existing non-white paint from the exterior of the Building.
 2. Repaint the exterior of the Building with white lime wash.
 - The period of compliance with the requirements is 3 months
 - The appeal is made on the grounds set out in section 39(1) (c) (e) (g) (h) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.
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Decision

1. The listed building enforcement notice is quashed.

Appeal on ground (c)

2. To be successful on this ground of appeal it must be successfully argued that the works carried out, as alleged in the second schedule of the listed building enforcement notice, do not constitute a contravention of section 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended (the Act). Section 7 of the Act states that '*Subject to the following provisions of the Act, no person shall execute or cause to be executed any works for the demolition or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest unless the works are authorised.*' Section 8 sets out when works to a listed building are authorised.
3. The appeal property is a mid-late C18 farmhouse. It is constructed from traditional materials, including coursed, squared chalk on a brick plinth with red brick dressings and gable ends and a pantile roof. Based on the evidence before me, including the list description and observations on my site visit, the significance of the listed building as a heritage asset is mainly attributable to its historic use as part of a traditional farmstead, as well as its architectural details, including its plan form and use of traditional materials, dentilled brickwork at eaves level, Yorkshire timber sliding sash windows and its simple vernacular form.
4. There does not appear to be any dispute that the works the subject of the Notice were carried out without listed building consent (LBC). The question is therefore whether the works have affected the character of the building as one of special

architectural and historic interest. This is irrespective of whether the works are considered to be harmful to the building.

5. The use of chalk in the construction of the building has evidential value which contributes to the historic interest of the building. Chalk was traditionally quarried locally and used in the construction of vernacular properties in the Yorkshire Wolds. The farmhouse was first listed in 1985. The list description describes the property's building materials as "Coursed, squared chalk (now white-washed) on brick plinth;...." White washing, otherwise known as limewashing, is generally applied to the external surface of chalk buildings to protect the chalk from erosion. I noted on my site visit that the gabled ends of the farmhouse still retain a limewash finish, whilst the front elevation of the property was finished in a white masonry paint. I understand that since the Listed Building Enforcement Notice (LBEN) was issued and the appeal made, the appellant has applied a coat of white masonry paint to the front elevation of the building to cover the beige colour paint which had been applied to that elevation and is cited in the LBED as a contravention of section 7 of the Act.
6. The painting of the front elevation of the building in a beige colour diminishes the evidential value of the building as one constructed in white chalk stone. Not only is the beige colour not reflective of the original "white" chalk stone but the masonry paint also has a different texture and finish to the limewashed chalk which alters the character of the building. There is no doubt that the application of that beige colour paint has affected the character of the building as a building of special architectural and historic interest. There is no LBC in place for these works, and it follows therefore, that a contravention of the Act has occurred. The appeal on ground (c) fails.

Appeal on ground (e)

7. The appeal on ground (e) is that LBC ought to be granted for the works the subject of the notice.

Main Issue

8. The main issue is whether the works preserve the special architectural and historic interest of the listed building.

Reasons

9. Section 16(2) and 66(1) of the Act require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
10. As set out in my reasoning on ground (a) above, the significance and special interest of this heritage asset is mainly derived from its historic use as part of a traditional farmstead, as well as its architectural details, including its plan form and use of traditional materials, Yorkshire timber sliding sash windows, dentilled brickwork at eaves level, and its simple vernacular form.
11. The traditional building materials include the use of squared chalk stone. The use of chalk with brick detailing was common on farmhouses in the late 18th Century, and No 7 Bridlington Street is a fine example of such a traditional vernacular building. It provides evidential value of the use of chalk stone construction.

12. I recognise that the unpainted and limewashed chalk gable ends of the building continue to provide evidence of the building's chalk construction. Nevertheless, the painting of the property's main façade in a beige colour is not reflective of, nor does it respond to the building's chalk origin. Furthermore, the masonry paint, which generally has a low permeability to liquid moisture, applied to chalk could result in moisture being trapped in the chalk construction and damage the fabric of the building. The paintwork, including its colour, has a harmful effect on the special interest of the building.
13. I noted on my visit to Hunmanby, that many of the buildings in the village centre are painted, including rendered buildings with a painted finish and painted brickwork. Those buildings are painted in a variety of colours. However, I did not see any other painted chalk buildings. Even if there are other painted chalk buildings in the locality, the existence of those other painted chalk buildings would not justify the harm that I have identified to the special interest of this building.
14. The overall impact of the works are, in the context of the significance of the heritage asset and in the language of the National Planning Policy Framework (the NPPF), less than substantial. In those circumstances, paragraph 215 of the NPPF says that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
15. From the evidence before me, the farmhouse has always been and continues to be in residential use. Even though I have found that the harm to the designated heritage asset is less than substantial, it is not to be treated as a less than substantial objection. There are no public benefits of painting the building that would outweigh the considerable importance and weight to be given to the harm to the heritage asset. As such, the works do not comply with paragraph 215 of the NPPF and there is conflict with the design and heritage aims of Policies DEC1 and DEC5 of the Scarborough Local Plan, 2017. The appeal on ground (e) thus fails and listed building consent is refused.

Appeal on ground (g)

16. The appellant argues that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. He believes that to be the case because he considers the former state of the building to be white paint over lime wash rather than an original lime wash finish.
17. I recognise that it is likely that prior to the appellant painting the front elevation in beige paint, it had previously been painted white over the lime wash. However, that white paint was unlawful and did not benefit from listed building consent. From the evidence before me, the last lawful condition of the building was as described in the list description, chalk, white-washed. Thus, only by removing all the layers of paint and repainting the exterior of the Building with white lime wash, would the building be restored to its condition before unauthorised painting was carried out.
18. I conclude that the requirements of the LBEN are not therefore excessive and the appeal on ground (g), fails.

Appeal on ground (i)

19. Ground (i) is that the steps required by the notice for the purpose of restoring the character of the Building to its former state would not serve that purpose. To support this case the appellant similarly argues that the former state of the Building was white paint. However, it can be seen from my decision on ground (g) that the lawful state of the Building was chalk, white-washed. The appellant further argues that attempting to remove the existing paint may also risk damaging the substrate, which would be more damaging than the alleged harm caused by the enforcement works.
20. The Third Schedule of the LBEN sets out the steps required to be taken for restoring the character of the Building to its former state. Step 1 is to remove the existing non-white paint from the exterior of the Building, and Step 2 to repaint the exterior of the Building with white lime wash. From the evidence before me, the local planning authority are seeking the removal of all the masonry paint from the front elevation of the building and then for the chalk stone to be repainted with white lime wash. However, for the reasons set out below, the requirements as set out in Step 1 and 2 are not clear or precise in achieving the purpose of restoring the building to its former state.
21. Step 1 requires the removal of non-white paint from the exterior of the Building. It does not, however, say how that paint should be removed, and it only refers to 'non- white' paint. Thus, requiring the removal of the non-white paint could mean repainting in white paint? Moreover, because the LBEN does not specify how the paint should be removed, it could be removed by any method, as opposed to securing removal by the Doff Steam Cleaning System by a specialist contractor, which the Council agree would be the means by which the chalk stone would be protected from further harm. The appellant could comply with the LBEN by utilising a chemical to remove the paint and in doing so cause damage to the chalk stone. The use of a chemical paint stripper would not restore the character of the building to its former state. I am also mindful that Step 2 requires the exterior of the Building to be repainted with white lime wash. It is only the front elevation of the Building which has been painted, and thus, in the interests of precision, the Steps should refer to the front elevation of the Building only.
22. Section 41(1) & 41 (2) of the Act make provision, on appeal, for the Secretary of State to correct or vary the terms of the LBEN, provided those correction(s)/variation(s) will not cause injustice to the appellant or the local planning authority. To ensure the character of the Building is restored to its former state the Third Schedule would need to be corrected to require the removal of all the masonry paint from the front elevation of the Building and to specify the paint to be removed utilising the Doff Steam Cleaning System only. Furthermore, Step 2 should require the repainting of the front elevation of the Building with white lime wash. However, varying the requirements to require all the masonry paint to be removed from the front elevation of the Building utilising the Doff Steam Cleaning System would be more onerous than the existing requirements set out in the Third Schedule of the LBEN. Consequently, there would be injustice to the appellant if I were to vary the terms of the Notice to ensure that the character of the Building is restored to its former state and conflict with Section 41 (2) of the Act.

23. I conclude, for the reasons set out above, that the steps required by the LBEN to be taken do not achieve the purpose of restoring the character of the Building to its former state. The appeal on ground (i) succeeds.

Overall Conclusion

24. I conclude that the listed building enforcement notice does not specify with sufficient clarity the steps required for compliance. I have considered whether it is open to me to correct the error in accordance with my powers under section 41(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, but these powers do not extend to repairing fundamental defects, and any such correction would cause injustice to the appellant. As the notice is invalid it will be quashed. In these circumstances the appeal under ground (h) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) does not fall to be considered.

Elizabeth Pleasant

INSPECTOR