

Appendix C: Report of Listed Building Assessor

Contents

1. Preamble	4
2. Planning policy guidance	5
The development plan.....	5
Legislative provisions	5
Protection of listed buildings	5
List descriptions	5
Fixtures and curtilage structures	5
Control of works to listed buildings.....	6
Form and content of listed building applications.....	6
Transport and Works Act cases	6
Control of development	7
The setting of listed buildings.....	7
Criteria for listed building control	7
Later approval of details	8
Conditioning of consents	8
3. Descriptions.....	9
The setting of the listed buildings	9
The special architectural and historic interest of the North Pier.....	10
The special architectural and historic interest of the South Pier.....	10
The works to the North Pier as applied for	12
The works to the South Pier as applied for	12
4. Procedural matters.....	15
The application documents	15
Extent of the listed structures.....	15
The root of the North Pier.....	15
The root of the South Pier.....	15
The South Pier slipway	16
Joint survey of the slipway.....	18
Site observations	18
Conclusion regarding extent of the listed buildings.....	18

Appendix C: Report of Listed Building Assessor

Nature of the works affecting the South Pier	19
Scope and detail of applications.....	19
Relevance to proposed fish quay	21
Relevance to widening of the South Pier	21
Conclusions regarding scope and detail of the applications	22
5. The case of the applicants	24
Background and benefits of the proposals	24
Background to the listed building applications.....	25
Historic and architectural interest of the listed buildings.....	25
Consultation with English Heritage and Humber Archaeology Partnership.....	26
Proposed works affecting the North Pier	27
Proposed works affecting the South Pier	28
Amendments and options put forward during the inquiry	29
The setting of the listed buildings	30
Engineering considerations	30
Repairs and enhancements to the listed structures	31
Consideration of alternatives	31
Summary	32
6. The cases of the objectors	33
Introduction.....	33
The setting of the listed buildings	33
The effect of the proposals on the setting of the listed buildings.....	33
Historic and architectural interest of the listed buildings.....	35
The effect of the proposals on the special interest of the listed buildings.....	36
The approach adopted by the applicants	37
Role of English Heritage.....	37
Engineering considerations	37
Socio-economic justification for the works	38
Summary	40
7. Conclusions	41
The main issues.....	41
The approach adopted by the applicants	41
The role of English Heritage	42
Origin and development of the proposals	43

Appendix C: Report of Listed Building Assessor

Further options and amendments	45
The special architectural and historic interest of the listed buildings	47
The effect of the proposals on the character of the listed buildings.....	47
The effect of the proposals on the setting of the listed buildings.....	48
Engineering considerations	49
Alternative proposals	51
Balancing of criteria and summary	51
8. Recommendations	52
Listed Building Application North Pier alterations and extension	52
Listed Building Application South Pier alterations and extensions.....	52
Conditions in the event of approval	52
Appendix: additional recommendations in the event of approval.....	53

1. Preamble

1.1 I have been appointed as Assessor in respect of listed building aspects of the concurrent public local inquiries held at the Town Hall Bridlington in pursuance of Section 11 of the Transport and Works Act 1992 and Section 12(4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 into the Proposed Yorkshire Marina

1.2 I am required to advise on the determination of the two Listed Building Applications, ref. 01/01237/PLB and ref. 01/01230/PLB, dated 6 March 2001, for alterations and extensions to the North and South piers of Bridlington harbour by the East Riding of Yorkshire Council. I am particularly required to have regard to the following matters as listed in the statement of matters;

(k) The extent to which the proposals are consistent with policies relating to the conservation of the historic environment, in particular those contained within Planning Policy Guidance Notes 15 (Planning and the Historic Environment) and 16 (Archaeology and Planning).

(l) The impact of the proposed new marina on the character, special interest and the setting of the listed structures.

(m) The impact of the removal of the listed parapet wall on the special interest of the listed South Pier.

1.3 In this capacity I attended the pre-inquiry meeting on 1 August 2001 and on 31 July 2001 and 12 September 2001 participated in informal inspections of Bridlington harbour. I was present at the inquiry from 2 October to 5 October and 10 October to 12 October 2001 and the following dates in 2002: 24 January and 25 January, 5 February to 7 February, 20 February to 22 February, 5 March to 7 March, 27 May to 31 May, 2 July to 5 July, 8 July to 12 July and 15 July, when evidence relevant to the listed buildings applications was given by the applicants and objectors. I attended accompanied site visits on 5 February, 5 July and 15 July 2002.

1.4 In assessing these matters I have taken into account all written representations made in relation to the matters on which I am required to advise. I have considered the proposed Unilateral Undertaking put forward by the applicants and the suggested conditions to be attached to the listed building consents sought under the Planning (Listed Buildings and Conservation Areas) Act 1990 (*Documents APP/261 and APP/248*).

1.5 At the start of the inquiry there were seven outstanding objections to the listed building consent applications. There were no supporters. The applicants were represented by senior counsel who called four witnesses. The Bridlington Harbour Commissioners were represented by senior counsel who also called four witnesses. Five other objectors gave evidence including the representative of the Bridlington Protection Group. English Heritage has no objection to the proposed works and made available a spokesman at the inquiry to answer written questions.

1.6 This report contains the following matters; a summary of planning policy guidance in respect of these matters; brief descriptions of Bridlington harbour and its setting, the listed buildings concerned and their special architectural and historical interest and the proposed works; an account of various procedural submissions made in relation to the determination of the applications and my opinion on these matters; the gist of relevant submissions made and finally my conclusions and recommendations. I attach an appendix, giving my alternative recommendations in the event of approval of the two applications.

2. Planning policy guidance

The development plan

2.1 The Humberside Structure Plan (1993) was approved in 1987 and amended in 1993, and covers the period up to 1993. Policy En6 of that plan requires that *'Sites of archaeological importance will be safeguarded from development which would harm them'*. Policy En7 states that *'The conservation and enhancement of buildings and areas of historic or architectural importance will be encouraged.'*

2.2 The East Yorkshire Borough Wide Local Plan was adopted in June 1997 and covers the period up to 2004. Policy EN13 of that plan deals with archaeology and states that *'Proposals will not be permitted where they would adversely affect the site or setting of nationally important archaeological remains whether or not they are a scheduled ancient monument'*. Policy EN20 states that *'Proposals affecting listed buildings will only be permitted where the character, appearance and setting of the building and its curtilage will be retained'*. The policy requires that *'Sufficient detail will be required to enable such an assessment to be made.'* Additionally the policy requires that *'Proposals for alterations and extensions will only be permitted where they can be accommodated without the loss of the special interest of the building'* and that *'Proposals for demolition will only be permitted where there is no prospect of economic use'*.

Legislative provisions

2.3 The above policies are in accordance with legislative provisions and published statutory guidelines. The Planning (Listed Buildings and Conservation Areas) Act 1990 consolidates enactments relating to special controls in respect of buildings and areas of special architectural or historical interest, related planning policy guidance being set out in Planning Policy Guidance Note 15: Planning and the Historic Environment issued in September 1994 (PPG15).

Protection of listed buildings

2.4 In accordance with Section 16(2) of the Act, Paragraph 2.4 of PPG15 requires the Secretary of State, when considering whether to grant listed building consent for any works which affect a listed building, to *'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest which it possesses'*.

2.5 This statutory requirement amounts to considerably more than merely requiring proposals to be in empathy with the special qualities which have been identified for the listed structures. In effect it creates a presumption in favour of protecting the historic or architectural interest of the listed building and its setting when considering such applications.

List descriptions

2.6 Paragraph 6.19 of PPG15 confirms that the description of any listed building in the statutory list is principally an aid to identification, and is not intended to provide a comprehensive or exclusive record of all features of importance. *'Absence from a list description of any reference to a feature does not, therefore, indicate that it is not of interest or that it can be removed or altered without consent.'*

Fixtures and curtilage structures

2.7 PPG15 paragraph 3.30 stresses that it is important to know the extent of a listing in order to determine whether listed building consent is needed. Section 1(5) of the Act sets out the meaning of a listed building for the purposes of the Act: *'a listed building... includes any object or structure fixed to the building'* and *'any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948.'*

2.8 It follows that if a structure forming part of the land is sited within the curtilage of a listed building and dates from earlier than 1948 it is deemed for the purposes of the Act to be part of the listed building whether or not it is fixed to it.

2.9 It is a matter of fact whether a structure forms part of the land and falls within the curtilage of a listed building. The principal tests arise out of case law and relate to the physical layout of the land surrounding the listed building at the date of statutory listing (in this case 19 January 2001) and the relationship of the structures to each other.

2.10 For a structure within the curtilage of a listed building to be part of the listed building it must be ancillary to the principal building and must have served the purposes of the principal building at the date of listing in a necessary or reasonably useful way. It must not be historically an independent building. There must be some degree of physical annexation to the land.

Control of works to listed buildings

2.11 Whether proposed works constitute alterations or demolition is, as explained in PPG15 paragraph 3.2, a matter of fact and degree. Paragraph 3.3 continues, *'Once lost, listed buildings cannot be replaced and they can be robbed of their special interest as surely by unsuitable alteration as by outright demolition'*. A convincing case must therefore be made out to outweigh the general presumption in favour of preservation, whether the works involve alteration or demolition. *'The desirability of preserving the building or its setting, should be the prime consideration for authorities in determining an application for consent.'*

Form and content of listed building applications

2.12 Paragraph 3.4 of PPG15 stresses that *'Applicants for listed building consent must be able to justify their proposals. They will need to show why works which would affect the character of a listed building are desirable or necessary. They should provide the local planning authority with full information, to enable them to assess the likely impact of their proposals on the special architectural or historic interest of the building and on its setting.'*

2.13 Section 10(2)(b) of the Act specifies that *'Such an application....shall contain....(b) such other plans and drawings as are necessary to describe the works which are the subject of the application'*.

Transport and Works Act cases

2.14 Applications for listed building consent which accompany TWO applications, as do those under consideration, are normally governed by the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992 where the application for consent has been made not later than 10 weeks after the Section 6 application. Schedule 1 of these regulations has the effect of extending Section 10(2)(b) of the Act so as to permit the submission and consideration of a wider range of required material than is specified.

2.15 Paragraph 5.9 clarifies that these provisions are *'minor modifications'* which apply to such applications so that they *'may be progressed in parallel with the application for the related Order'*, and *'that one Inspector will be able to make mutually compatible recommendations about the different applications'*.

2.16 In this case however the applications for listed building consent were made some 21 weeks after the TWO application. While Section 1(b) provides that, if the Secretary of State considers it appropriate and so directs, the regulations may apply in any event, I am not aware of any such direction made in this case.

2.17 Such greater latitude in providing written or other material in support of an application in lieu of plans and drawings would not extend in any event to the degree of detail to be provided. The necessity to describe the works is clearly set out in Section 10(2) and is interpreted as the provision of *full information* in paragraph 3.4 of PPG15.

2.18 I know of no other statutory guidance which would support the contention that, in determining a listed building consent application, the fact that it is being considered contemporaneously with a TWO application may be a factor to be taken into account in determining the degree of detail that is required.

2.19 Neither is there any guidance to support the contention that listed building applications might be submitted in two stages in such cases, enabling elements of infrastructure works having an impact on the listed buildings to be given consent first, followed by further applications for the development they support and which justify them.

2.20 Whatever therefore may be the regime which governs the TWO application and its attendant deemed outline planning application, the listed building applications on which I am required to advise as assessor, and which have been considered in parallel with the TWO application at the inquiry, are subject to the unchanged provisions of Section 10(2) and PPG 15.

Control of development

2.21 The presumption in favour of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, is extended in Section 66(1) of the Act to the determination of planning applications which affect a listed building or its setting.

2.22 Paragraph 2.11 of PPG15 expects developers *'to provide such written information or drawings as may be required to understand the significance of a site or structure before an application is determined'*.

2.23 Authorities are unlikely to be able to exercise their duty under Section 66(1) of the Act *'unless the planning application is accompanied by a listed building consent application (where the development in question requires one) or at least contains an equivalent amount of information.'*

The setting of listed buildings

2.24 PPG15 paragraph 2.16 stresses that *'the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and the contribution they make to townscape, if they become isolated from their surroundings'*. There is no precise definition of the extent of the setting of a building, which may often include land some distance away. The setting very often owes its character to the quality of the spaces created between a particular grouping of buildings.

Criteria for listed building control

2.25 PPG15 makes clear that determination of an application for listed building consent is essentially a balancing exercise. On the one hand, as paragraph 3.5 sets out, are considerations of the historic interest of the building, its physical features, including its design, plan, location and setting. On the other hand is the extent to which the proposed works bring substantial benefits for the community. Such benefits may come about either by their contribution to the economic regeneration of the area or the enhancement of its environment.

2.26 The presumption in favour of preservation, however, means that the demonstrable scale and quality of such benefits must be such as to outweigh any perceived harm to the special architectural or historic interest of the listed building, its special features or its setting. It is for the applicant to demonstrate, by means of such details as are necessary, the claimed benefits arising out of the proposed works.

2.27 It follows that in applications involving development as well as works attention should be directed at the extent to which those works which affect the listed buildings or their setting are essential to the procurement of the benefits attaching to the development as a whole, such assessment being necessarily concerned with matters of detail.

2.28 PPG15 gives guidance on how such assessments should be made. The guidance is broadly applied to applications that entail alterations and extensions on the one hand and to partial or total demolition on the other. Demolition is not defined in the guidance except to the extent that paragraph 3.1 is amended by Circular 14/97 Appendix E, which extends the term to demolition of a significant part of a listed building.

2.29 The treatment of alterations and extensions on the one hand, and demolition on the other, is instead dealt with in paragraph 3.7, which makes clear that *'considerations relevant to the two types of case to some extent overlap. For example, some of the considerations set out in paragraph 3.19, in relation to demolitions, may also be relevant to substantial works of alteration or extension which would significantly alter the character of a listed building.'* In other words there is no need particularly to dwell on whether the works applied for constitute demolition or what that term may mean; what matters is the effect of the works.

2.30 Bearing this in mind, it is of note that paragraph 3.17 of PPG15 states that *'the Secretar(ies) of State would not expect consent to be given for the total or substantial demolition (and by inference significant alteration or extension) of a listed building without clear and convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed..... The Secretar(ies) of State would not expect consent.... to be given simply because redevelopment is economically more attractive than repair and re-use.'*

2.31 Paragraph 3.19(iii) states that *'the Secretar(ies) of State take the view that subjective claims for the architectural merits of proposed replacement buildings (and by inference works of alteration and extension) should not in themselves be held to justify the demolition (or extensive alteration or extension) of any listed building.'*

2.32 Paragraph 3.12 explains that *'In judging the effect of any alteration or extension it is essential to have assessed the elements that make up the special interest of the building in question. They may comprise not only obvious visual features... but the spaces and layout of the building and the archaeological or technological interest of the surviving structure and surfaces.'*

2.33 Paragraph 3.15 stresses that *'achieving a proper balance between the special interest of a listed building and proposals for alteration or extensions is demanding and should always be based on specialist expertise.'* Paragraph A.5 of Annex A advises that *'Authorities should have adequate specialist expertise available to them for the discharge of their responsibilities...The availability of advice from English Heritage ...does not relieve authorities of the need to ensure that they have their own expert advice suitably deployed.'*

Later approval of details

2.34 Annex B of PPG15 deals with listed building control procedures. Paragraph B.10 stresses that *'The authority must always be satisfied that it has adequate information to assess the effect of the proposed works... before granting consent: the extent of the work, the method to be used, and the materials involved are all important. However Section 17(2) of the Act permits authorities to impose conditions requiring the subsequent approval of specified details of the works (whether or not these had been set out in the application).....It avoids the need for the authority to refuse consent if it is satisfied that the remaining details can safely be left for subsequent approval; but it should never be used unless authorities are satisfied that they have enough details to assess the impact of the proposals'*.

Conditioning of consents

2.35 Measures to ensure that subsequent approved development takes place within a reasonable time scale following demolition are referred to in PPG15 paragraph 4.29. Such measures are particularly relevant to applications made in parallel with TWO applications due to the programming of the procurement processes likely to apply to works covered by such Orders.

3. Descriptions

The setting of the listed buildings

3.1 Bridlington is a seaside resort located at the northern end of Bridlington Bay about 7.5 km south west of Flamborough Head, a prominent headland jutting out into the North Sea about half way between the estuaries of the Tyne and the Humber. Flamborough Head is a flat triangular shaped headland with low eroded limestone cliffs on its northern and southern shores, which give way, a short distance north east of the town, to sandy beaches. These sandy beaches increase in width at low tide immediately south of the town. The low lying east facing shoreline south of the town continues southwards for nearly sixty km to Spurn Head at the entrance to the Humber, and is subject to erosion.

3.2 The harbour area of Bridlington was, until the beginning of the nineteenth century, detached from the main inland part of the town, but the commercial centre of the town has since shifted so that it now lies immediately to the north of the harbour in the area once known as Bridlington Quay. The harbour is sheltered from the south east round to the north east but is open to winds from the south and east. It occupies a small south facing indent in the coastline formed by the Gypsy Race, a small stream which discharges into the sea at this point.

3.3 A sandy bar, known as The Canch, forms close to the entrance to the harbour due in part to the effect of the Gypsy Race, and the entrance is periodically dredged. A much larger bank is located offshore, known as the Smithic Bank, which affords a degree of shelter to Bridlington Bay from the east and south east.

3.4 The harbour is protected by the North Pier on its eastern side and the South Pier on its southern side. The entrance to the enclosed tidal basin, which largely dries at low water spring tides, is located in the south eastern corner between the rounded heads of the two piers. Vessels berth against the inner face of the South Pier, on moorings within the harbour, or in the case of fin keeled yachts, in wooden cradles approachable at half tide.

3.5 Facilities for lifting out and maintaining vessels are located on a platform recently built over an inlet known as Clough Hole, where the culverted Gypsy Race enters the harbour in its north western corner. A timber jetty, known as the Chicken Run, used by smaller fishing boats divides the harbour into a northern and southern section. There is another timber jetty used by pleasure boats at Crane Wharf in the north eastern corner.

3.6 The harbour basin is a focal point within the town, and is full of maritime activity. It is overlooked by higher ground to the west and by the commercial centre to the north. There are striking views down narrow alleys leading down from Queen Street and Prince Street and from the root of the North Pier. Most striking of all is the view looking out to sea along the seaward length of the South Pier from South Cliff Road.

3.7 At lower level within the harbour there are various facilities serving the fishing and tourist industries, including a car park on Gummer's Wharf at the root of the South Pier. From these locations and from vessels within the harbour the piers frame and dominate their setting due to their height and the largely unbroken line of their parapets.

3.8 The South Pier also dominates the view from the northern end of South Beach due to its massive proportions and its relationship to the slipway at its root. From further afield to the south, the view of the South Pier against the backdrop of Flamborough Head is particularly fine, due largely to the harmony that is produced by the juxtaposition of the unbroken silhouettes of these man made and natural features.

3.9 From a short distance out at sea the engineering qualities of the harbour piers as protective structures are particularly impressive, as is the architectural quality of their seaward elevations.

The special architectural and historic interest of the North Pier

3.10 The North Pier is about 200 metres in length and averages about 10 metres in width. It is aligned in a south south easterly direction from its root at the north eastern corner of the harbour. Its deck is about 5.8 metres above OD (about 8 metres above Mean Low Water Springs). Its overall height, including its parapet, above the sea bed varies but averages about 10.7 metres. The larger part of the pier dates from 1816 - 1843.

3.11 In the late 1700s the Harbour Commissioners became concerned at the expense of maintaining earlier piers, which were constructed largely of timber. The eminent engineer Sir John Smeaton (1724 - 1792) was consulted and suggested that the piers be replaced in stone. The design for the North Pier was prepared by Simon Goodrick and the work was supervised by Mr Mathews the harbour engineer, who is credited with the first use of cast iron sheet piling in its construction. Following completion of the South Pier in 1848 it became apparent that the new harbour suffered from considerable wave disturbance and the North Pier was extended to the design of Sir John Coode in 1866 in pre-cast concrete blocks set in Portland cement.

3.12 The vertical profile of its seaward elevation takes the form of an elliptical concave curve presenting a battered profile to the sea and terminating in a concave string course and a rounded band or string course (otherwise known as '*bible stones*') below a plain sandstone parapet. The vertical profile of its inner elevation is similarly battered, with a less pronounced concave curve.

3.13 Very little is known of the Goodrick work to the pier although tender drawings have survived. The last 40 metres of the southern end of the pier, the Coode extension, is constructed of an inner wall and outer wall of concrete blocks with cross walls of rubble set in lime mortar and voids filled with dry chalk rubble. The exposed concrete blocks are faced to match the ashlar work and the pier head is angled southwards to shield the harbour entrance.

3.14 The pier head is topped by cast iron bollards, capstan and harbour light. The latter has a square battered base, a fluted shaft which has been replaced in glass reinforced plastic and an octagonal lantern. There is another harbour light at the root of the pier, which forms a triangular shaped stone platform deriving pedestrian access via a semi circle of steps from a pedestrian area at the junction of Prince Street and Garrison Street. The pier was listed Grade II on 19 January 2001.

The special architectural and historic interest of the South Pier

3.15 The South Pier is about 470 metres long and averages about 8.5 metres in width excluding later additions. It is aligned in a generally easterly direction from its root at the south western corner of the harbour, but curves a few degrees to the north for the last 90 metres of its length and then straightens and widens into a rounded head. The harbour entrance formed between the two pier heads is about 27 metres wide. The South Pier is lower than the North Pier, its deck being about 4.7 metres above OD (about 7 metres above Mean Low Water Springs). Its overall height above the sea bed is about 9.5 metres near its outer end.

3.16 The South Pier was the outcome of the Bridlington Harbour Act of July 1837, enacted following a report by a House of Commons Select Committee in June 1836 into harbours of refuge for the London coal trade on the north east coast of England. The new pier, which replaced an earlier wooden pier, was built at a cost of £30,200 between 1844 and November 1848 under a contract let to Messrs John Orrell, Tomas Orrell and William Wightman on 26 March 1844 by the Commissioners of Bridlington Harbour.

3.17 The structure was constructed according to drawings and a specification dated December 1843 prepared by Messrs Walker and Burges, a partnership of eminent early Victorian civil engineers specialising in harbour works. James Walker LLD FRS (1781-1862) succeeded Thomas Telford as President of the Institution of Civil Engineers from 1834 to 1845 and was the engineer responsible for the East and West India Docks in London, Vauxhall Bridge, the river wall of the Houses of

Parliament, Bute Docks in Cardiff and Dover Harbour. Alfred Burges, his partner (c1801-1886) was for a time a council member of the Institution of Civil Engineers.

3.18 The specification shows that the South Pier was constructed of two outer walls of ashlar sandstone bonded to chalk rubble inner skins up to 1.8 metres thick overall, with 1.2 metres thick connecting cross walls of chalk rubble at intervals of 9 metres reinforced with wrought iron ties at 1.8 metre intervals vertically. The voids were filled with hearting of chalk rubble blocks laid dry in courses. Detailed instructions are given of the sizes of stone to be used, the composition of the cement mortar and the use of joggles and cramps to secure the parapet and copings.

3.19 The present appearance of the exposed elements of the pier accords with the above specification. Carved arrows on the inner face of the parapet indicate the position of the internal cross walls and elegantly carved chainage marks are to be seen on the seaward face. The vertical profile of this seaward elevation has a similar elliptical concave batter to match the earlier North Pier, but the curve flows naturally up to the rounded bible stone without an intervening concave string course, producing a more elegant effect and one which was no doubt intended to present a more robust engineering solution in terms of resistance to high seas.

3.20 The inner elevation is again battered with a slight concave face terminating in a sandstone coping. The head of the pier is rounded, particular care being taken with the jointing of the coping and parapet over the curved section. Steps are provided near to the head of the pier, ingeniously married to the battered inner face of the pier.

3.21 A short length of the pier was widened in the 1930s to provide a fish quay and in 1966 a substantial concrete building was added alongside this section to provide ice storage and other facilities. Repairs to the pier have been carried out in concrete in recent years.

3.22 The root of the South Pier forms a cobbled triangular platform backing on to the retaining wall of South Cliff Road and merging with Gummer's Wharf. Access to this platform is down an inclined roadway constructed in about 1859 from the road above, which is supported by a brick faced retaining wall of similar date.

3.23 There is a cobbled slipway to South Beach from the root of the South Pier, which was completed at the same time as the pier and is referred to in contractual correspondence between James Walker and the Harbour Commissioners. There is however no reference to the slipway in the contract specification for the pier.

3.24 The original slipway, which does not appear to have extended to beach level, was extended and modified following an agreement in 1874 between a Colonel Rhodes and the Harbour Commissioners. The origin, function and status of this slipway in relation to the listed building are dealt with in Part 4 of this report. The angle between the slipway and the South Pier is protected by an inclined apron of coursed stonework which continues for about 80 metres seaward and is reinforced with boulders.

3.25 The South Pier was also listed on the 19 January 2001. The two piers taken together make up a significant industrial monument of the early Victorian period. Their special interest lies in their qualities as massive industrial structures combining an effective engineering response to their function as sea defences with considerable architectural subtlety in the design of their plan form and cross sectional profile, these two qualities being in complete functional harmony.

3.26 The South Pier, due to the greater sophistication of its design, its special historic interest as a product of an Act of Parliament, the extent of available evidence relating to its design and construction and its association with eminent civil engineers of the period, is on balance the more interesting. Due to its alignment in relation to the foreshore of South Beach it also contributes most to the overall character of the harbour and the setting of both listed buildings.

The works to the North Pier as applied for

3.27 Separate applications are made in respect of the two piers, accompanied by supporting statements and drawings (*Document ERYC 38*). In the case of the North Pier the application is for '*Alterations and Extension to the North Pier to form an East Breakwater to the Yorkshire Marina, Bridlington.*'

3.28 The drawings submitted with the application include a location plan to a scale of 1:2500, a plan of existing arrangements to a scale of 1:750 No. HOOCH/C4/001, a plan of the new works to a scale of 1:2000 prior to mitigation measures No. HOOCH/C4/007, a plan of new work with mitigation measures to a scale of 1:750 No. HOOCH/C4/003 and sections and elevations on the North Pier to a scale of 1:100 No. HOOCH/C4/006. The supporting statement explains that drawing No. HOOCH/C4/007 is intended to amend drawing No. HOOCH/C4/001 in respect of the proposed mitigation measures.

3.29 The location plan shows the North Pier partially outlined in red line, the plan being unclear as to the extent of the listed structure. The applicants confirmed at the inquiry however that they regarded the listed structure as incorporating the triangular platform at the root of the pier together with an attached timber landing stage. A revised location plan was supplied.

3.30 The supporting statement explains that the proposed works include an extension to the North Pier in the form of a new eastern breakwater, 450 metres long. The drawings show that a 5 metre wide concrete walkway along the top of the breakwater would be level with the deck of the pier and incorporate a parapet of the same height as the existing on its seaward face and a safety railing on its inner face.

3.31 The breakwater would be constructed of imported Scandinavian granite rock armour graded in layers to form sloping revetments of 1:2 on its seaward side and 1:5 on its inner side. Its width would be about 45 metres on the sea bed, narrowing to about 8 metres at walkway level. It would follow a segment of a circle in a generally southerly direction on plan. Drawing HOOCH/C4/003 shows an amendment to the original arrangements whereby the inner toe of the breakwater revetment is angled back at sea bed level to avoid encroachment on the pier head.

3.32 A new parapet junction is proposed, formed of reused parapet blocks to create a splayed junction between the end of the pier and the new concrete walkway. Miscellaneous repairs are proposed to the pier using matching specifications. The supporting statement explains that the proposed extension will be in a modern style reflecting current developments in the economic design of sea defences. No details are provided of the safety rails, but these are to have a modern nautical appearance.

The works to the South Pier as applied for

3.33 In the case of the South Pier the application is for '*Alterations to South Pier as part of the construction of the Yorkshire Marina, Bridlington.*' (*Document ERYC 38*)

3.34 The drawings submitted with the application include a location plan to a scale of 1:2500, a plan of existing arrangements to a scale of 1:750 No. HOOCH/C4/001, existing South Pier details to a scale of 1:50 and 1:100 No. HOOCH/C4/004, a plan of the new works to a scale of 1:750 prior to mitigation measures No. HOOCH/C4/002, a plan of new work with mitigation measures to a scale of 1:750 No. HOOCH/C4/003 and sections through the South Pier to a scale of 1:50 No. HOOCH/C4/005. The supporting statement explains that drawing No. HOOCH/C4/003 is intended to amend drawing No. HOOCH/C4/002 in respect of the proposed mitigation measures.

3.35 Again, the red line around the listed building indicated on the location plan fails to make clear its extent as it stops short of the root of the pier. In this case however there was no agreement at the inquiry as to the extent of the statutory listing. The applicants have supplied a revised layout plan showing the pier extending as far as the end coping of the parapet at its landward end and incorporating a small rectangular part of the triangular platform referred to equivalent in width to that of the pier.

3.36 It is not clear from this plan whether it is claimed that the South Pier did not originally extend as far as the land at this point, or that the land then extended as far as the red line shown. English Heritage have expressed agreement with the depiction of the extent of the listed structures as shown on the revised location plans. An alternative plan has been produced by the applicant extending the red line a further 8 metres into the triangular platform and incorporating a 60 metre length of the adjoining slipway. This matter is discussed in Part 4 of this report.

3.37 The extent of the works applied for is not clearly set out in the supporting statement to the original application, the uncertainty being compounded by the absence of any reference to any extension on the application form. In the section entitled '*Description of the proposed works to the South Pier as part of the construction of the marina*' no clear distinction is drawn between the works which are the subject of an application for deemed outline planning permission and works which form an extension to the South Pier, and thus clearly would require listed building consent.

3.38 This uncertainty is repeated in the depiction of the works on the drawings forming part of the original application. Drawing No. HOOCH/C4/002 shows a quay abutting the seaward elevation of the South Pier in a pecked line labelled '*Possible location of marina basin wall*'. Drawing No. HOOCH/C4/003 supersedes drawing HOOCH/C4/002 but retains the depiction of the quay in a pecked line and labels it '*Possible location*'. These depictions appear to confirm that the width and length of this feature is not fixed.

3.39 On both of these drawings the pecked line extends to the depiction of the junction between the quay and a much larger extension (Work No. 2 on the TWO Plans). No drawing to be read with this application shows the full extent of Work No. 2. This would appear to indicate, in the light of the wording of the application form, that this large extension to the South Pier, constructed as a suspended concrete deck, is not intended to form part of the works for which listed building consent is applied.

3.40 The landfill works which form the bulk of the works set out in the TWO are mentioned in the supporting statement but do not form part of the listed building application. These butt up against the walls of the pier on either side and extend upwards to its deck level. On the seaward side the infill works extend into the quay referred to and thus obscure the entire seaward elevation of the pier within the marina basin, but are outlined in the same pecked line as the quay. On the harbour side the infilled area is shown outlined in a continuous line and obscures the inner face of the pier for a length of about 130 metres.

3.41 The access road to the works, which would need to be constructed as part of the TWO works, would ramp down to the level of the South Pier from the junction of the Promenade and South Cliff Road. The alignment of this ramp is shown on the plan attached to the Development Framework as coinciding with the alignment of the listed building and would clearly have a major impact on its character and setting. There is however no reference to this ramp in the application for listed building consent.

3.42 Drawing HOOCH/C4/003 shows amendments to the original proposals which have the effect of cutting back the seaward edge of the suspended concrete deck so that it no longer extends in a splay to the pier head. However no details are provided of the deck, its supporting structure, its junction with the listed building or its finishes.

3.43 While the entire length of the South Pier parapet was demolished in the original proposals, the amendments show two lengths remaining, one 175 metres long roughly coinciding with the new quay and the other at the pier head. A length of just under 175 metres at the landward end would be reduced to ground level. The stones from the removed parapet would be used as copings to the edge of the reclaimed area within the harbour.

3.44 Works of restoration to the existing pier include the demolition of the concrete and steel building on the fish quay. No details are given of any remedial works or finishes to the new works or of any structures or other fixtures to be attached to the pier, either at deck or water level. The issue of detail is addressed in Part 4 of this report.

Appendix C: Report of Listed Building Assessor

4. Procedural matters

The application documents

4.1 I have given consideration to whether the omissions, anomalies and ambiguities in the application documents relating to the South Pier render this application invalid. I consider that the application falls below a standard which would normally be considered adequate for proper evaluation of proposals of this kind.

4.2 However, I do not think the public interest would be served by rejection of the application without detailed consideration, not least because it was subject to extensive amendment and amplification during the course of the inquiry.

4.3 The applicants produced revised location plans which show their interpretation of the extent of the listed buildings. This interpretation has been endorsed by English Heritage but was hotly contested by objectors. This issue is considered further below as it was the subject of detailed procedural submissions.

4.4 There remains therefore a lack of clarity in relation to the description of the works applied for in relation to the South Pier and in particular whether the listed building consent applied for extends to the alterations and extensions which are manifestly proposed as part of the TWO application.

4.5 For the avoidance of doubt, I consider that the Eastern Breakwater, Work No. 2 and those parts of Work No. 5 which abut the South Pier are extensions to the listed buildings and should therefore be considered as such in the determination of these applications. I do not agree with counsel for the applicants that this is an entirely technical issue since the question then arises of how such extensions have been dealt with in terms of detail provided and alternatives considered.

Extent of the listed structures

4.6 A number of submissions and counter submissions were made at the inquiry in relation to the extent of the listed structure of the South Pier for the purposes of the Act. These submissions arose partly from a written question of clarification by me of the Council's Head of Planning and Development Control on 16 October 2001 as to whether the South Pier extended as far as the supporting wall to South Beach Road and the ramp to the beach and to my further clarification of the issues arising from this question on 7 March 2002 (*Document X9*). No submissions were made by objectors in respect of the extent of the listing of the North Pier.

The root of the North Pier

4.7 The applicants made a submission, accompanied by a plan, which showed the boundary of the North Pier extending over the triangular platform at its root and including a timber landing stage attached to the south side of that area (*Document APP/226*). This landing stage is of modern construction in timber steel and reinforced concrete and first appears on a harbour plan of 1928. Its inclusion within the listing must therefore arise either under subsection (a) of Section 1(5) of the Act as a structure fixed to the building or under subsection (b) as a structure predating 1 July 1948 within the curtilage of the building (not fixed to it but forming part of the land). In either case the landing stage fulfils the test set by the House of Lords in 1987 that such structures must be ancillary to the listed building. In the latter case only it must, as ruled in *Watts v. SofSE 1991*, have been so associated with the listed building at the date of listing and, as ruled in *Morris v NAW 2001*, be sufficiently close to the building to be accessible from it.

The root of the South Pier

4.8 While it is accepted by the applicants that the 1853 Ordnance Survey Plan surveyed in 1850 (*Attached to document OBJ/88*), just over a year after the completion of the South Pier, shows a

curved root to the pier coinciding with the triangular platform in place today, the inclusion of the curved part of the platform in the listing was objected to on the ground that it is impossible without excavation to establish what survives below ground. I do not believe such a consideration to be material. It is clear on the ground that the curved section of the platform forming the root of the pier coincides with what was surveyed in 1850 within a year of the completion of the pier and that the 1853 map shows the pier attached to the land by its triangular root.

4.9 The contract specification for the South Pier describes a 9 metre wide access roadway to run down the cliff face behind the pier (from what is now South Cliff Road) to give access to the works. This roadway was to be constructed at an inclination of 1:18 formed in broken chalk, finished with gravel and supported by inclined slopes made of material excavated from the harbour. If the roadway was built it would have connected with the triangular platform forming the root of the pier. The 1853 map does not however show any trace of such a feature.

4.10 The present roadway, together with a proposed wharf wall and quay, was the subject of arguments with the Admiralty between the middle of 1848 and the middle of 1849 and it is clear that the formation of a proper road was postponed until after the pier had been completed. A specification dated May 1859 relates to the formation of a carriage road '*from the South Cliff top to the South Pier*' and the construction of breast and retaining walls supporting the road.

4.11 It could well be that by 1850 the rough contractors access specified for the works had deteriorated to such an extent as to be not considered worthy of depiction on the 1853 map. Alternatively, as suggested by the applicants, the point of access was altered so that stones were delivered from the South Beach via the slipway to the South Pier. These theories are speculative however and in my view both would have required some sort of delivery platform at the root of the pier.

4.12 Such a triangular platform with a curved edge facing the harbour is clearly shown on this OS map and other contemporary documents and formed the landward end of the pier until Gummer's wharf was constructed under a deed dated December 7 1883. I see no valid reason to dispute that this triangular area, forming the original root of the pier forms part of the listed structure. Still less have I seen any evidence to justify the arbitrary delineation of a small rectangular part of this area as the landward end of the listed structure, as proposed by the applicants.

The South Pier slipway

4.13 The submissions by the Council reject a claim by objectors that the slipway at the root of the South Pier, while not being included in the contract specification for the pier, forms part of the listed building for the purposes of the Act. In the first instance it is considered significant that unlike the landing stage, it is not included in the list description. This proposition is at odds with advice in paragraph 6.19 of PPG15 which explains that list descriptions are not to be considered exhaustive descriptions.

4.14 The Council's submissions accept that the slipway is shown on the Ordnance Survey map of 1853. It is also shown with the South Pier and the access roadway on a plan of Bridlington harbour with new works as executing which is stamped and dated November 1848 by the Admiralty harbour department (*Attached to document OBJ/88*). It is surmised however that the slipway shown might have been either a temporary means of access from the beach for the purposes of constructing the pier (introduced as an alternative to the specified access from the cliff above) or a later construction (presumably built between the end of 1848, the date of the plan and 1850, when the OS map was surveyed).

4.15 Submissions by the objectors claim that the slipway was an integral part of the original design of the South Pier, performing the function of a breakwater to protect the landward end of the pier.

4.16 The objectors' view is confirmed in the 8th report of Walker and Burges dated 2 July 1848, towards the end of the construction process (*Document OBJ/142*), which states that '*The work for*

protecting the end of the pier next the cliff, and which forms also the road from the pier to the South Shore, is considerably advanced, a little filling in, and the paving of the roadway being the only things required to complete it.' This report also seems to indicate that the slipway was constructed fairly late on in the contract period and would not thus have originated as a construction access to deliver stones to the pier. It is noteworthy that it is described by its designer as a *'road from the pier to the South Shore'*, a function which it still performs.

4.17 A letter to the Commissioners dated 28 August 1849 reinforces the importance attached by James Walker to the slipway. While visiting Bridlington to settle an arbitration in relation to the contract final account he urges that what is now urgently required *'in order to prevent the destruction of the slip or inclined road down to the beach at the west end of the South Pier, is the protection of the cliff at that place from further waste.'* He urges that *'A few hundred tons of large rough stones, and some small piles, will prevent damage to the amount of thousands of pounds if the seas should get behind the walls and form a breach into the harbour, which is to be feared if the preventive be neglected.'*

4.18 Whatever therefore may have been the reason for omitting the slipway from the contract specification, it is clear that it was added during the construction of the pier, was largely completed by July 1848 and was regarded by its designer as a permanent and essential element of the works to the South Pier, without which its function as a sea defence to the harbour would be seriously compromised.

4.19 The applicants' submissions concede that whatever may have been the original purpose of the slipway its subsequent function has been as an access between the harbour and the beach and as part of the sea defences of the surrounding area. However it is claimed that these are not ancillary functions to that of the South Pier, which is to serve as protection to the harbour and as a quay for mooring and servicing boats. I do not regard these distinctions as valid.

4.20 The evidence as a whole shows that the sea defence function of the slipway was originally, and still is, ancillary to the sea defence function of the South Pier. That it was at the time of its construction is demonstrated by the documents produced by the objectors. That it is today is demonstrated by expert testimony at the inquiry that the slipway at times of high on shore seas is subjected to the full force of the *'mach stem wave'* that runs along the seaward face of the South Pier towards the shore line. The effect of such pounding is visible on site at the junction between the slipway and the pier.

4.21 The slipway was considerably extended in 1877 under an agreement between Colonel Rhodes and the Harbour Commissioners. A significant element in those improvements was the reinforcement and extension of the protective apron that is common to the two structures and which appears on the 1853 map. Reference is made in contemporary documents to the *'great flank wave'*, which is another name for the *'mach stem wave'* described by the applicants' expert witness. The design of the common protective apron, which is clearly intended to reduce the impact of this wave is itself testimony to the co-dependence of the slipway and the pier in sea defence terms.

4.22 It is noteworthy that a similar sea defence feature appears at the landward end of the original south pier on a plan showing an earlier design of the new pier prepared by Simon Goodrick in 1814. His report states that *'The breakwater of piles near the West end of the Pier, to stop the encroachment of the sea upon the shore was added in 1810.'* It is clear therefore that the need for a breakwater attached to a south pier in the form of a spur at its root was recognised as far back as the beginning of the nineteenth century. This in my view considerably underlines the special historic interest of the slipway as seen today.

4.23 The other function of the slipway as an access from the deck of the South Pier to the beach may be said to be analogous to that of the landing stage at the root of the North Pier, which gives access to vessels in the harbour. If neither pier existed there would be no necessity for either the landing stage or the slipway to perform this function. Conversely if either the slipway or the landing stage did not exist alternative means of access might well need to be provided.

4.24 I conclude therefore that the slipway has an ancillary function to that of the South Pier both as an '*inclined road down to the beach*' (in the words of its designer) and as an integral part of the sea defence function of the pier as constructed in 1848. It therefore meets the House of Lords test of 1987 as outlined in paragraph 4.7 above.

Joint survey of the slipway

4.25 A joint survey was carried out of the slipway at my suggestion, and maps and sketches dated 1848, 1853, 1874 and 1891 compared to establish whether there was agreement whether the original slipway shown on the 1848 Admiralty plan and the 1853 Ordnance Survey map, as altered under the terms of the agreement of 1874, is the same as the slipway in evidence today.

4.26 The resulting Statement of Agreed Matters dated 20 May 2002 (*Document APP/222*), produced following this survey concluded that the width, length and horizontal alignment of the upper part of the existing slipway are similar to those of the original slipway. The gradients are also similar. While there were difficulties in interpreting the 1874 sketches and their effect it is therefore clear that the slipway which was completed in late 1848 and surveyed in 1850 by the Ordnance Survey survives in an extended form today.

Site observations

4.27 There are signs that the outer face of the slipway has been considerably repaired as well as eroded by the action of the sea. Being a considerably smaller and less weighty structure than the main pier it would be subject to less pronounced settlement. A construction joint might well have been incorporated by the designer to allow for such differential settlement. There is little sign of such a construction joint on site.

4.28 It was apparent to me on my site visit that the end bible stone is carved in such a way as to form a re-entrant angle coinciding with the alignment of the slipway. Additionally at least one course of ashlar work within the face of the pier is bonded with the facing stones of the slipway below the bible stone. These observations confirm that the South Pier as constructed was designed to accommodate the slipway and that the slipway derives structural support from its larger neighbour, forming an integral part of its design and construction. See also *Document OBJ/213*.

4.29 I also observed on site that the lower part of the retaining wall supporting what is now the access ramp to the South Promenade from South Cliff Road on the landward side of the slipway is built of ashlar similar to that used in the seaward face of the slipway. This work coincides with the retaining wall shown on the 1853 Ordnance Survey plan. I consider that this stone work is ancillary to, and contemporary with, the slipway and the South Pier and performs the same function of sea defence.

Conclusion regarding extent of the listed buildings.

4.30 Bearing in mind the statement of agreed matters and my own site observations therefore, I have no doubt that the slipway forms part of the South Pier for the purposes of the Act. Moreover, bearing in mind the extensive historic evidence placed before the inquiry regarding the origin and function of the slipway I place considerable weight on the contribution it makes to the special architectural and historic interest of the listed building as a whole.

4.32 In arriving at these conclusion I have given due weight to the stated opinion of English Heritage regarding this matter, which I note was expressed before the full extent of the historical information relating to the origin and authorship of the slipway, as set out in specifications, drawings and correspondence by James Walker, was presented to the inquiry by an objector. I conclude that the slipway, including its seaward apron and the lower part of its landward retaining wall is an ancillary structure fixed to and forming part of the listed building by virtue of Section 1(5)(a) of the Act.

4.32 I agree with the amended delineation put forward by the applicants in the case of the North Pier.

Nature of the works affecting the South Pier

4.33 Following submissions by an objector the question arose of the extent to which the proposals amounted to demolition (or its equivalent). The implications of this issue were outlined by me on 7 March 2002, when concern was expressed on behalf of the applicants that they had not been referred to earlier, so that appropriate questions could be put to the representative of English Heritage when he appeared at the inquiry. The question of the extent of the listed structure was however the subject of four written questions of clarification by me on 16 October 2001 (*Document X9*). The issue of whether the slipway is in effect demolished and the implications thereof arise inevitably from those questions.

4.34 I have considered carefully the opinion which was expressed on behalf of English Heritage regarding this issue, which is unambiguous. Their representative stated that the proposals did not amount to demolition, that the tests in respect of proposed demolition are set out in paragraphs 3.16 and 3.19 of PPG15, and that if demolition were proposed English Heritage would have entered an objection.

4.35 It is not entirely clear whether, in arriving at that conclusion, English Heritage fully subscribed to the view expressed in the supporting statement to the application that, since that part of the listed building which would be buried beneath the ground would remain intact (even though obscured from public view) the overall effect was preservation rather than destruction.

4.36 I have to say that I find that to be an incomprehensible position to take up, which to me flies in the face of the purpose of statutory guidance directed at the preservation of buildings of architectural or historic interest. It is not an argument that I think would be mounted by any applicant in respect of a more conventional structure, say a Grade II listed country house. The proposition that the South Pier is preserved, as it remains in situ is therefore in my view untenable.

4.37 Calculations relating to the proposals as originally submitted produced to the inquiry show that in respect of the South Pier about 29% of the length of the listed structure would be completely buried below ground (*Document APP/227*). This figure does not allow for burial of the slipway and its ancillary features. In addition about 89% of the important seaward face of the pier would be lost to view, being obscured by land fill. The retention of the parapet, the lowering of the access road and the reduction in level of the development site would reduce this loss to about 53% and leave exposed a short length of the slipway above ground level.

4.38 It matters not whether the effect of the works is described as demolition. Clearly they involve substantial alteration and extension, and paragraph 3.7 of PPG 15 makes clear that, in practice, considerations set out in paragraph 3.17 and 3.19 relating to demolition (including demolition of a significant part) may also apply to such cases. I consider that they do in this case. Crucially these considerations require convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses and these efforts have failed.

4.39 In this context I interpret this consideration as requiring the applicants to demonstrate that in working up their scheme they seriously examined and rejected alternative marina layouts which would preserve the essential nature of the South Pier (as a structure with water both sides). In view of my conclusion regarding the extent of the listed structure, this exercise would of necessity need to include detailed consideration of the effect of the proposals on the slipway, its essential nature and function.

Scope and detail of applications

4.40 Detailed submissions were made to the inquiry as part of the evidence of experts on both sides regarding the scope of the applications for listed building consent, the detail provided and their interrelationship with the application for deemed outline planning consent. I have treated these as procedural submissions since they incorporate a claim that the lack of detail renders the application in respect of the South Pier in particular incapable of determination on the grounds that it is in effect an

outline application for listed building consent, for which there is no provision in legislation. These submissions were triggered by my raising the issue in written questions to English Heritage on 6 February 2002 and again on 7 March 2002 because of ambiguities in the application documents and uncertainty as to the nature and extent of the works applied for in relation to the South Pier as outlined above.

4.41 The applicants claim that any proposed development on the areas of reclaimed land (the works which are the subject of the TWO) is by definition excluded from the application for deemed outline planning consent and the listed building application, which relate solely to those works. Such development (the topside works) would be the subject of later applications for planning permission and, where appropriate, listed building consent. The Development Framework, the Master Plan and the Unilateral Undertaking provided the framework for these matters and were irrelevant to the listed building consent applications. Crucially however, the applicants draw no distinction between development attached to, and therefore forming part of, those works that are in effect extensions to the listed buildings and the works generally.

4.42 Moreover, while it became apparent at the inquiry that both listed building applications effectively involved extensions to the piers as well as alterations, in practice the two applications are treated quite differently. Whereas the extension to the North Pier is clearly defined as the Eastern Breakwater, and details provided in relation to the materials to be used and its configuration, the same cannot be said in respect of extensions to the South Pier.

4.43 The issue of detail gave rise to three broad lines of argument. In the first instance the applicants claim that no details are required in respect of any buildings or fixtures attached to any part of the works which may be regarded as extensions to the South Pier. Their case rests on the assertion that such features do not form part of their application. In lieu of such detail the applicants have put forward a Unilateral Undertaking linked to a Development Framework which they claim gives the assurances that they consider adequate in the circumstances to secure the consents that they seek.

4.44 The weight to be attached to this claim has to be judged however against the assertion of counsel for the applicants in her closing submission on listed building matters that these documents are not relevant to the current applications for listed building consent. If that is really the case it is difficult to see what evidence remains that is both relevant and of sufficient weight to justify the proposals in respect of extensions to the South Pier. It is certainly not the case that the need for justification can be waived merely because the applications have been submitted in parallel with an application for a TWO.

4.45 The objectors claim that such a procedure has no basis in legislation, is in fundamental breach of the Listed Buildings and Conservation Areas Act 1990 and is contrary to policy guidance. They argue that the applicants' failure to provide such details renders the application incapable of determination. The structures to be placed on the extensions to the South Pier are an integral part of the overall design of the works and form the justification for the configuration of the supporting platforms. To leave the details of these elements for later approval, would amount to granting an outline listed building consent, for which there is no statutory basis.

4.46 The lack of clarity apparent in the application documents as to whether the works applied for involve extending the South Pier persisted during the inquiry. For example, the perimeter of the quay attached to the south face of the pier is shown as provisional in all relevant submitted drawings, including those finally amending the application. No details are provided of the proposed fish quay other than those explicitly requested at the inquiry of the junction between the sheet piling of the quay and the concave outer face of the South Pier.

4.47 In the second instance the applicants argue that PPG 15 paragraph B10 allows latitude in relation to the later approval of details. I agree that such latitude exists, but in my view it does not extend to situations where there are not enough details to assess the impact of the proposals on the listed building. The extent of the work, the method to be used, and the materials involved are all important.

4.48 In the third instance the applicants argue that, given the conservation experience within the Council, the stated method of seeking designs and the Council's practice of close liaison with English Heritage, it is acceptable to deal with the outstanding aspects of the proposals that have an impact on the setting of the South Pier in a subsequent listed building application.

4.49 This argument does not address the advice in paragraph 3.4 of PPG15 that it is for the applicants to justify their proposals. English Heritage have made it clear that the new development likely to be included in the subsequent planning application will potentially have a greater impact on the character and appearance of the listed piers than the proposals currently under consideration.

4.50 Given that opinion, and bearing in mind that the sole justification of the works applied for is that they serve as infrastructure to such development, it is difficult to see how the Secretary of State may be satisfied that the current application should be granted if the substance of the proposals are contained in an application which has not yet seen the light of day.

Relevance to proposed fish quay

4.51 It is clear to me that Work No. 2, variously known at the inquiry as the peninsula or the fish quay, is an extension to the South Pier. I accept that Work No. 2 would be visibly attached to the southern breakwater by the lock gates when they are closed but do not consider that those works represent an extension to the South Pier, and I note that the applicants themselves define the fish quay as a separate element of the Order Works in the order documents. It is separately delineated in continuous heavy line on the application drawings to distinguish it from the generality of the infill works. Unlike Works Nos.3 and 5, it was originally proposed as a framed structure attached to the pier.

4.52 Leaving aside the issue of the topside works, very little detail has been provided, either in relation to the original suspended slab structure or the infilled quay which superseded it. It is clear that the vertical walls of the extension will be formed of steel sheet piling and that this would be capped with a concrete edge to the horizontal surface of the quay.

4.53 No dimensions or details have been supplied in relation to the profile of the piling or the capping. Apart from a sketch showing the junction between the sheet piling and the curved stonework of the listed structure, (specifically requested at the inquiry), no details of constructional materials or finishes have been produced.

4.54 Moreover no details whatsoever have been provided of the fixtures, many and varied, normally associated with a fish quay. These would include bollards, safety rails, fenders, pontoons, walkways, access and security systems, power and water distribution, lighting, buoyage and navigation works. All these features have the potential to impact significantly on the character of the listed structures. In view of their importance they ought not in my view be left for later approval of details.

4.55 The paucity of detail or description in relation to the works applied for makes it very difficult to assess the impact of the proposals on the character of the listed building, even taking account of the fact that the proposals relate to a massive industrial structure. In my view the architectural subtlety of the design of the South Pier merits much more careful consideration of detail than is demonstrated in the drawings and other information produced by the applicants in relation to this extension.

Relevance to widening of the South Pier

4.56 While the proposed widening of the South Pier is part of Work No. 5, which constitutes the infilling of the reclaimed area of the South Beach south of the pier, in practice it produces a separate quay facing the marina basin and extending as far as the extension referred to above. Its purpose is at least in part to serve as a vehicular access to the facilities attached to the proposed fish quay. It also supports development in the form of a terrace of domestic dwellings. The effect of this part of the works is to widen the pier by more than six times and I consider that it should therefore be regarded as

an extension to the South Pier in its own right, which requires listed building consent and appropriate justification.

4.57 Written material was put forward in evidence to show that this quay would be required to serve as an access to the proposed fish quay. The development framework appears to show that it would also be used for the mooring of yachts within the marina basin, but no detailed plans or drawings were submitted in respect of fixtures to be attached to the extension. There is no list and no details of fixtures to be attached as street furniture to the roadway in the way of lighting or safety or at water level in respect of any provision for mooring of vessels or access to water level.

4.58 Such fixtures would be essential for the safe operation of this quay, even in the absence of the housing proposed at the level of the pier. These could well have a significant effect on the character and setting of the listed structure and ought not to be left for later approval of details.

Conclusions regarding scope and detail of the applications

4.59 I have carefully noted the argument put forward on behalf of the objectors that the absence of detail renders the listed building applications incapable of determination. I note that this was the initial opinion of English Heritage. I agree with the Harbour Commissioners' expert that, notwithstanding arrangements for the determination of outline planning applications generally arising out of TWO applications, no arrangements exist for varying the normal statutory requirements arising from the provisions of Sections 10(2) and 66(1) of the Act in respect of any works or development likely to affect listed buildings.

4.60 It is difficult to see how the proposals set out in the current applications can be successfully justified in the absence of any substantive information pertaining to those attached buildings and other fixtures that are at the end of the day the sole justification for the configuration of the extensions which support them. There is nothing that I can see in legislative provisions or planning policy guidance relating to concurrent decision making under the provisions of the Transport and Works Act 1992 that overrides paragraph 3.4 of PPG15.

4.61 In such cases, as in all listed building cases, any outline proposals have to be firmed up with such other information as is necessary to describe the whole of the works in such detail as enables the applicants to fulfil their obligation to justify them. Only where the obligation to justify the proposals as a whole has been discharged does the facility for later approval of details through conditions come into play.

4.62 The basic proposition of the applicants that this case may be determined by making a two stage listed building application in my view overlooks the underlying purpose of the 1990 Act, which is to ensure that the full impact of any proposals that affect the special interest or the setting of listed buildings is known before any approval is given.

4.63 I have seen nothing in the guidance relating to Transport and Works Act procedures which explicitly address this issue but that may be because cases of this nature have been too few for the matter to be brought to attention. On the other hand there is nothing in the procedures which places an obligation on the applicants to apply the two stage approach that they have adopted for the TWO to their listed building applications.

4.64 It was for the applicants to determine how they should proceed, and despite this issue being raised early in a year long inquiry they elected not to use the available time to deploy appropriate specialist expertise as advised in paragraph A.5 of Annex A of PPG15 to seriously address the perceived shortfall of information. Instead they produced expert evidence in support of their claim that sufficient information was available to enable the applications to be determined. I have to say that I did not find this evidence convincing.

4.65 In response to questions the applicants' expert agreed that the relationship between the extensions to the South Pier and the buildings to be placed on them was highly relevant, not only because these topside elements represented the justification for the works proposed but because they crucially

affected the character and setting of the listed buildings. He conceded that details of such elements were highly desirable but argued that the inquiry need not be concerned with them.

4.66 His support for the course taken by the applicants appeared to be reduced to concern for delay and the possibility of abortive work. These are clearly relevant considerations in relation to the TWO regime generally. However it is the applicants' decision to extend this two stage approach to the more onerous regime that applies in respect of listed building control that laid them open to the powerful allegation that as a consequence they were unable to justify their proposals.

4.67 It is certainly the case that the Secretary of State may grant a conditional listed building consent, but that is not at all the same thing as granting consent for infrastructure works to support development the impact of which on a listed building can not be determined. Despite the absence of explicit guidance on the subject therefore, I consider that the approach the applicants have elected to take to their listed building applications is seriously flawed and not in accordance with statutory guidance as set out in Part 3 of PPG15 concerning Listed Building Control.

4.68 This means in practice that it is unlikely that a conclusion could reasonably be reached that the applicants have adequately justified their proposals with regard to two major elements of the works for which listed building consent is required, the fish quay and the widening of the South Pier. However the actual merits of these elements in terms of their impact on the character and setting of the listed building must clearly be explored within the overall context of the scheme before final conclusions can be reached.

5. The case of the applicants

The material points were

Background and benefits of the proposals

5.1 The overall aim of the project was to secure the socio-economic regeneration of Bridlington by acting as a catalyst to attract new private and public investment. The proposals were for a 500 berth marina and associated support services and for related land based developments on around 14.7 hectares of existing and reclaimed land. The potential for development had been assessed by an Economic Impact Assessment. The development was likely to include a yacht club and harbour master's office, between 12 and 18 marina related and other retail outlets, some office uses including marina related offices, commercial facilities for the fishing industry, facilities for the RLNI, a 100 bed three star hotel, indoor leisure facilities including a multiplex cinema and up to 312 residential units at about 49 units per hectare. Full development was expected to take place over a ten year period.

5.2 The development as a whole was in accordance with national and local planning policy guidance. On the basis that these policies support the principle of a marina at this location, the Council had adopted Supplementary Planning Guidance on 21 October 1999 identifying the key planning considerations surrounding the development of the marina and associated elements. The key issues identified included a requirement for high quality character and appearance and the need for the development to be designed as an integral part of the town with appropriate physical linkages to take fully into account its relationship with its surroundings and the highway network. The Supplementary Planning Guidance required that the design of new buildings should have particular regard to the visual amenity and sea view from properties on South Cliff Road and South Marine Drive. The role of open spaces and breaks in the built environment should be fully explored.

5.3 The Council would invite bids from developers wishing to enter into a partnership to develop the marina in accordance with a brief that would include a Development Framework approved on 27 September 2001 and the results of an Environmental Impact Assessment of the TWO. A Unilateral Undertaking would be given under Section 106 of the Town and Country Planning Act (as amended), the First Schedule of which included a covenant to carry out repair and enhancement works to the listed piers, to salvage and re-use stone recovered from the vicinity of the South Pier, to amend the Development Framework to incorporate any amendments made by the Secretary of State on confirmation of the TWO and to carry out the top side development in accordance with the principles of the Development Framework as amended.

5.4 The Environmental Impact Assessment (*Document ERYC 2*) referred to the visual impact of the TWO proposals and concluded that their scale would have a major adverse impact on landscape character and in particular on views from the Spa and South Marine Drive. Mitigation measures proposed included the requirement that materials used in construction should be indigenous to the existing harbour. The Development Framework required that any future proposals would require an Environmental Impact Assessment in their own right in due course. Prospective developers would be required to take part in an architectural competition.

5.5 The Development Framework included a Master Plan showing proposed final land uses including a hotel zone, a retail/commercial/ leisure area within the existing harbour, a residential area alongside the seaward side of the South Pier and a commercial fishing area and yacht club located on an extension to the South Pier at its eastern end. This plan was derived from a sketch layout dated 26 November 1999 included in a Final Report dated February 2001 (*Document ERYC 50*), prepared by the Council's engineering consultants, who had no specialist architectural experience or expertise in listed building matters. The sketch layout was therefore prepared in consultation with an officer of the Planning and Development Control department of the Council. Alternative engineering drawings shown in the report showed other feasible layouts. Earlier plans included a sketch layout incorporated in a Feasibility Report dated June 1998.

5.6 The Master Plan showed the main vehicular access to the marina entering the site from South Cliff Road parallel to and close to the South Pier and branching off to serve the residential area to the south and the commercial fishing area at the end of the pier. The access road was shown as bridging over a main pedestrian spine running parallel with the shoreline at the level of the South Promenade. The finished level of the reclaimed land would be the same as the deck of the South Pier.

5.7 The residential area which abutted the south side of the South Pier was about 0.6 hectares in area and accommodated up to 40 double fronted residential units of no more than two and a half storey height. These should respect the special character of the listed South Pier. It was envisaged that buildings in the commercial fishing area, including the facilities for the Royal Yorkshire Yacht Club, should be of imaginative design creating a landmark and focal point. These and other aspects of the scheme were the subject of a computer generated indicative visualisation on disc and hard copy.

5.8 The suggested retail/leisure area at the north west corner of the site provided a crucial link between the marina and the existing town centre thereby enhancing its economic viability and vitality. In design terms there was the opportunity to create a high quality water front development which would provide a direct functional and visual link between the marina, the old fishing harbour and the existing town centre.

5.9 Suggested interim land uses were put forward in the event of development being delayed by an economic downturn. These were shown on a plan attached to the Development Framework, and included an area for exhibitions on the site reserved for residential use abutting the South Pier.

5.10 The works for which consent was sought under the listed building applications could not be divorced from the entirety of the TWO works in that the relevant issues included not only those which are physical and relate to the structures themselves and their immediate surroundings but also those which concern the substantial benefits to the community in terms of economic regeneration of the area or enhancement of its environment.

Background to the listed building applications

5.11 The Council was notified of the listing of the North and South Piers of Bridlington Harbour on 31 January 2001, some three months after deposit of the three Orders with the Secretary of State. The Council had earlier expressed opposition to the listing. The applications were made on 7 March 2001 and approved by the Council's Planning Committee on 26 April 2001 (*Document ERYC 108*).

5.12 Following a consultation process in advance of the Committee meeting nine letters of objection were received from the public and reported to the Committee. A critical response from English Heritage expressing concern about the limited information provided was not received in time for it to be divulged in the Committee papers. English Heritage had since expressed no objection to the proposals. Later consultations with English Heritage are referred to in detail below.

Historic and architectural interest of the listed buildings.

5.13 It was not considered that the present North Pier was a particularly early or rare example of its type and it was not associated with any engineer of national note. No reference was made in the listing description to any special features of the construction. The date of the pier was not early, and it was only one of a number of piers constructed around this time on the north east coast. It was concluded therefore that the North Pier was of historic rather than architectural interest, and of historic interest only as a feature illustrating the history and development of the port and town of Bridlington.

5.14 The South Pier was constructed in 1843-1848 and had been patched up and widened in two sections, most notably in the 1960s. Its present character largely derived from the nature of the large sandstone blocks in its side walls, and their evident Victorian engineering quality. Its architectural character was not of intrinsic value in itself. The only feature of interest in the listing was the stone facing to the pier itself. The pier was listed because of its importance as an historic feature reflecting

the development of the port and town. It was not considered that the South Pier was a particularly early or rare example of its type and it was not associated with any engineer of national note.

5.15 The South Pier was of historic rather than architectural interest, and of historic interest only as a feature illustrating the history and development of the port and town of Bridlington. Unlike the harbours of Hartlepool and Seaham, which catered for the export of coal, the works at Bridlington harbour around the 1840s were more moderate in their ambition and related more to local fishing and the importing of coal and other goods to serve the town and its surroundings.

5.16 The piers were functional structures that in their time allowed the harbour to expand and enter a new era. The view of the Council was that the piers were not in the category of being so sensitive that they could not accommodate any further change in the interest of expansion. The works now proposed were of a significant scale but represented, as did the works in the late 1840's, an evolution of Bridlington, a passage into a more optimistic chapter. The harbour was enlarged by about 3 or 4 times by the construction of the existing South Pier and it was noteworthy that this was the order of expansion now proposed.

Consultation with English Heritage and Humber Archaeology Partnership

5.17 The initial response of English Heritage to the consultation process prior to the decision of the Planning Authority to approve the applications for listed building consent was dated 25 April 2001. The response highlighted a number of concerns about the proposal and English Heritage were unhappy with the limited information made available, particularly with regard to the extent of land areas to be reclaimed and its impact and that of the new development on the listed harbour walls. The view was also expressed that insufficient information had been made available to justify removal of the parapet of the South Pier. A detailed schedule of repair and enhancement works were required. The Council were informed that *'The Secretary of State will be bound to require further information in order to reach a decision, it may therefore be appropriate to defer a formal decision by your planning authority until there is a planning application with which to more fully assess the needs and or/benefits of the proposed scheme'*.

5.18 The Humber Archaeology Partnership indicated in a letter dated 18 September 2001 that the harbour had long been a key attraction of the resort and that the application site incorporated two listed structures of national importance. However, subject to the imposition of a condition securing the implementation of a programme of archaeological work before development shall take place no objection was raised on archaeological grounds.

5.19 Following a site meeting a further letter dated 27 July 2001 was received from English Heritage pointing out that there was no provision for outline consideration of a listed building application and that therefore as much information as possible must accompany the application. It was confirmed that at that stage there was inadequate information to fully assess the impact of the proposals on the character and special interest of the listed structures. The letter highlighted some areas of concern.

5.20 In relation to the infilling on either side of the South Pier however, English Heritage expressed no objection to the proposals in principle provided that the South Pier *'still reads as a separate structure'*. It was confirmed that this could be achieved through the use of contrasting floor surfaces.

5.21 A further letter dated 28 August 2001 followed receipt of further information from the Planning Authority. In this no objection was made to the revised layout of Works No. 2 as shown on drawing No. HOOCH/C4/003. However, concern was still expressed regarding the impact of the residential development that would back on to the South Pier. The letter notes that the new development was to be the subject of a future planning application in the context of a development framework. On the basis of the information received it was confirmed that there was sufficient information to inform the decisions on the listed building consent applications.

5.22 A letter dated 10 October 2001 confirmed agreement with the wording and content of suggested conditions to be attached to the consents. These related solely to the works to the existing listed structures.

5.23 On 12 December 2001, following the matter being raised at the inquiry on 16 October 2001, English Heritage responded to a query regarding the extent of the listing pier structures and their curtilage by expressing agreement with the initial submission dated 24 October 2001 of the Local Planning Authority and the plans attached thereto.

5.24 On 17 January 2002, following an approach from an objector, a desk top review of English Heritage's advice to the Local Planning Authority was carried out by its Head of Land Use Planning and Regeneration (*Document OBJ/205*). The extent of English Heritage's remit was confirmed as limited to the impact of the proposed marina enclosure and associated infilling on the special interest of the listed structures and their setting. It was understood that while it was normal practice for planning and listed building consent applications to be considered concurrently, in this case an approval under the Transport and Works Act would effectively grant outline permission for the marina works, leaving other matters to be dealt with at a later date.

5.25 English Heritage, in confining its response to the listed building aspects of the outline proposals, had made clear its view that the top side development works would potentially have a greater impact on the character and appearance of the listed piers than the proposals under consideration. Given the restricted scope of the remit therefore, the author of the report was entirely satisfied that the regional office had acted properly in not raising any fundamental objections.

5.26 A representative of English Heritage answered pre-set questions at the inquiry on 6 February 2002 in the light of information produced to the inquiry up to that date (*Document XI2*). English Heritage had no reason to disagree with the subjective view of the applicants regarding the importance of the listed structures. The proposals did not amount to demolition. English Heritage would probably object to demolition of either pier.

5.27 The role of the inspector at the inquiry was accepted by English Heritage, this being to question the judgements made by the Local Planning Authority in the balancing exercise referred to in paragraph 3.4 of PPG15. English Heritage's current view was that they had confidence in the Local Planning Authority's judgement and in house expertise and had therefore not become involved in that balancing exercise.

5.28 The extent and justification of the buildings and fixtures on Works No. 2 and their associated vehicular access alongside the South Pier had not been examined in any detail. English Heritage would however have a view on the proposals in respect of the top side works when these were submitted. In the meantime, with regard to the listed building application as submitted and revised up to 6 February 2002, English Heritage's response was not neutral but positive.

5.29 A further letter dated 24 May 2002 from English Heritage formally raised no objections to further option drawings supplied by the applicants showing revised access arrangements to the marina, the lowering of the development ground area alongside the South Pier, a reduction in the area of Works No. 2 and a revised layout of new buildings on the proposed fish quay.

5.30 The Council placed considerable weight on the role of English Heritage as statutory consultees. It was significant that they did not object to the applications, had been consulted throughout, had agreed the suggested conditions of the Council and had expressed confidence in the ability of the Council to determine future applications themselves.

Proposed works affecting the North Pier

5.31 The Eastern Breakwater was essential to give a sheltered entrance to the marina and the existing harbour. Its length was a function of the size of the marina basin and the need to move the harbour entrance into deeper water. Its alignment, which had evolved through the consideration of options, took into account prevailing wind and sea conditions and the need to limit wave height in the outer

harbour and entrance. The pier was to be constructed in accordance with current engineering practice so as to absorb the energy of incoming seas and minimise overtopping. A more traditional vertical structure would not be so efficient in this regard.

5.32 The new breakwater would abut against the North Pier on its outer face, but other than any necessary internal structural ties the main alteration to the existing pier would be the removal of a small section of parapet to allow access to the extension. Such a minimal alteration was not considered detrimental to the special interest of the listed building. The benefits brought by the marina would ensure necessary repairs and enhancements to the fabric of the listed building, which would amount to about £185,600 and £105,100 respectively.

Proposed works affecting the South Pier

5.33 The impact of the proposals on the South Pier was greater than on the North Pier given that the marina was to be constructed south of the existing harbour. Following the listing of the pier the design was amended to better enable the retention of its historic and architectural character. The existing parapet was removed at the landward side to facilitate a level development area, although between the commercial fishing facility and the main land reclamation area it was proposed to retain a 175m length of parapet. An amendment to the drawings which received the approval of the Planning Authority was proposed which retained the whole parapet apart from three short gaps to allow pedestrian links. Stone removed would be salvaged and re-used around the harbour.

5.34 Work No. 2 was mainly intended to form the new fish quay, storage, boat repair and other facilities required by the fishermen, an area for the harbour master's office and lock control building and to allow for the safe circulation of the general public. The location and plan form of Work No. 2 was dictated by the need to locate the new fish quay next to existing facilities within the existing harbour away from residential development and to provide new deep water berths for larger vessels in the new outer harbour. The original suspended slab design had been modified to accord with the method proposed for the marina basin generally.

5.35 Currently facilities for fishermen were scattered throughout the harbour but totalled about 5,600 square metres of buildings and hard standings. This total was made up of areas at Clough Hole, the Chicken Run jetty, Gummer's Wharf and the two areas of the South Pier used for trawler moorings and storage, including the fish market building. The figures did not include any area for the parking of vehicles. These facilities would remain apart from those on the South Pier, which would be reduced by the removal of the existing building. The new facilities would significantly improve provision for the industry in Bridlington and greatly improve access and berthing arrangements.

5.36 The arrangement proposed had been the subject of widespread consultation with local fishermen and their representatives and had received general support (*Document APP/153*). The commercial fishing industry would still be able to use the existing harbour under the new arrangements. Improvement of facilities in Bridlington, including the considerable extension of alongside berthing arrangements for larger vessels, were considered desirable despite the poor prospects for the white fish industry generally since such facilities could well attract back to Bridlington such vessels which have moved elsewhere due to poor access arrangements. Additionally the new facilities would provide improved facilities for the existing shell fish fleet, which was flourishing at Bridlington and which used former trawlers of about 20 metres length overall converted for this purpose as well as smaller vessels.

5.37 No details were provided as part of the listed building application of any buildings or fixtures to be attached to Work No. 2 as they would be the subject of a detailed planning application and, if appropriate, an application for listed building consent in due course. The listed building application was necessarily limited to the infrastructure to which the TWO application related. However, indicative visualisations had been provided to assist in evaluating the impact of the top side works on this and the other land reclamation areas within the marina.

5.38 Space was provided on Work No.2 for shore side facilities for the RNLI on the understanding that the all weather lifeboat displaced by the marina development would be berthed afloat alongside the new fish quay. This provision has been the subject of correspondence with the Divisional Inspector of the Institution, who had clarified requirements for under keel clearance and safety at the floating berth (*Document APP/157*).

5.39 In the application a footprint of 2,350 square metres had additionally been allocated on Work No. 2 for premises and associated car parking facilities for the Royal Yorkshire Yacht Club. It was intended that this building would be a prestigious and prominent landmark. The Yacht Club accepted that the cost of this building was not included in the estimated public works cost of the marina development.

5.40 The layout of the South Pier was largely retained in situ, or was maintained as a footprint within the larger marina scheme. It was accepted that for much of its length it would not have water both sides and would thus no longer fulfil the function of a pier, but as it would be subsumed into the development as a whole, the proposals would retain its special character as a listed building. The level platform on both sides of the landward end of the pier, extending for 130 metres eastwards of Gummer's Wharf on the northern side was required to maintain continuity between the development to the south and the proposed commercial/retail area within the harbour.

Amendments and options put forward during the inquiry

5.41 The initial proposals had been further refined during the course of the inquiry to reduce the direct impact of the works upon the historic and architectural interest of the piers. A revision to drawing HOOCH/C4/003 (revision D) now showed only two openings in the parapet wall of the South Pier to allow for pedestrian access only at the end closest to South Cliff Road and for pedestrian and vehicular access on to the proposed fish quay. As a result more than 95% of the parapet would now be retained. A detail was provided of the junction between the proposed fish quay and the curved face of the South Pier, (Drawing MOO19/SK/102).

5.42 The access road to the fish quay could be lowered by 1 metre, subject to requirements to ramp up to the level of the fish quay, to reveal the bible stone feature of the south face of the pier. A sketch detail was provided of how the proposed pedestrian access through the parapet would be managed to take account of the change in level and the requirements of the disabled (*Document APP/249*).

5.43 Three further options were put forward for consideration (*Document APP/P213*). Option 1 would reduce the area of the fish quay by about 20% as a result of the yacht club being prepared to relocate. This enabled any commercial buildings for the fishermen to be located further away from the South Pier (*Document APP/P213A*). The applicants however saw no great benefit in these measures.

5.44 Option 2 would relocate the residential development proposed on the widened South Pier (*Document APP/P213B*). The applicants themselves did not favour this option however as it would entail the loss of an opportunity to create an attractive area of housing.

5.45 Option 3 would move the shore end of the access road from South Cliff Road some 50 metres away from the alignment of the South Pier, leaving potential to reduce the proposed ground level between the road and the pier some 1.7 metres below the bible stone. The effect of this option would be to further expose the existing seaward face of the pier and leave unaffected by the proposals a significant length of the existing lifeboat slip at the root of the pier, which would be retained in use as a pedestrian access (*Document APP/ P213C*). The applicants favoured these measures.

5.46 Each of these options could be secured by condition and by reference to the revised drawings submitted. The original condition 1 had been superseded by such optional conditions itemising all the plans to be referred to (*Document APP/248*). Those conditions were precise and enforceable.

The setting of the listed buildings

5.47 The harbour area was not a designated Conservation Area although a number of old buildings in the centre of the town and near the harbour area were listed. The context of the piers was one of contrast with the built development of the town, rather than of common purpose and interlinked design. The setting of the listed buildings might be helpfully defined with regard to three views. In terms of the view from the South Pier towards the new development the sea and beach were important elements. Views of the South Pier from the site of the development highlighted the south elevation of the pier. The third aspect of the setting concerned views of the listed structures and the development together. Here the impact of the fish quay and the residential quays would be critical in terms of material and design.

5.48 It was conceded that the combined scale of the works proposed was large, but so was the scale of the task that it was meant to address. The design of the marina was deliberately large so that it could achieve the step change that was required to transform the fortunes of Bridlington. Although large in scale the real issue was whether what was proposed was out of scale with its surroundings.

5.49 Historically speaking the answer was clearly not, as the leap in scale was comparable with that which had occurred when the piers were originally constructed. It was conceded that there would be an impact on the setting of the listed structures but impact alone did not equate to harm and a balance had to be struck between the special interest of a listed building or its setting and broader economic benefits.

Engineering considerations

5.50 It was not accepted that dredging within the new harbour entrance within the Eastern Breakwater would have the effect of undermining the foundations of the listed buildings through scour or erosion of clay substrata following removal of sand. The amount of dredging would be strictly controlled under licence and if there were any scour there were ways of dealing with it, such as the use of underwater scour blankets.

5.51 It was not accepted that the hydraulic placing of fill contained by sheet piling against the face of the South Pier would cause damage to the pier either by lateral movement or rotation. The pier, although porous, was of soft construction and thus able to withstand considerable movement caused by the action of the tide and incoming seas.

5.52 Provision would be made for drainage of any accumulated water within the fill so as to prevent the build up of hydrostatic pressure against the face of the pier. This would be preceded by a full survey of the pier to provide baseline information and a comprehensive monitoring programme would take place during construction and beyond. The drainage system proposed would be subject to a risk assessment under the Construction (Design and Management) Regulations 1994.

5.53 The applicants' consulting engineers had successfully placed fill hydraulically against a listed pier at Ramsgate, also designed by James Walker, where no differential settlement was detected.

5.54 There was no substance in allegations of a risk of inundation of the South Pier and the fill placed alongside it due to overtopping of the proposed Southern Breakwater leading to excessive impounding of water in the marina basin. The claim was based on a series of layered worst case assumptions. For these to come together there would need to be Mean High Water Spring tides, which occurred twice a month, wind blowing from the South South-East direction, which occurred about 14% of the time, storm conditions with no warning given and the lock gates of the marina basin closed.

5.55 The amount of overtopping required to cause the water level in the marina to rise to a level that would cause inundation problems was vastly greater than predicted. No concern had been expressed by the Environment Agency regarding the risk of overtopping during statutory consultations. They had considered the flood defence issues and were satisfied that there was no basis upon which to object to the scheme.

Repairs and enhancements to the listed structures

5.56 An Interim Report on the South Pier had been prepared by the Council's consultants (Document ERYC 53). The proposals had the benefit of securing much needed repairs to the listed structures, which were unlikely to be implemented in totality within a comparable timescale if the marina proposals did not proceed. No grants were available to the Harbour Commissioners to cover repairs to the listed structures. A comprehensive schedule of repairs and enhancements had been agreed with English Heritage and with the Harbour Commissioners' consulting engineer.

5.57 The success of the marina proposal would therefore ensure the future repair and enhancement of the South Pier at a cost of about £138,000 and £215,100 respectively. If the marina did not proceed the South Pier would need extensive protection works to enable it to fulfil its function as part of the sea defences of the north east coast. Such works would obscure up to 25% of the seaward elevation by rock armour and cost about £1,000,000.

5.58 Additional protection of the North Pier would be necessary, as part of proposals to upgrade the sea defences of the north east coast, by placing rock armour against its seaward face at a cost of about £750,000. Such works would not be opposed in principle by English Heritage.

Consideration of alternatives

5.59 A number of alternative marina proposals had been canvassed at the inquiry. Some of these had been previously considered by the Harbour Commissioners. The impact of a smaller marina, such as the 'Vincent' alternative, located on the south side of the harbour would be almost the same as the applicants' proposals, particularly with regard to the setting of the listed structures, without the attendant economic benefits.

5.60 Consideration had been given during the inquiry to whether the marina proposals would work with the slipway at the root of the South Pier remaining in use. Significant changes would be required to move the inner part of the marina basin westwards against the slipway.

5.61 While this would expose the entire length of the South Pier to the water a marina basin in this location would seriously undermine some of the fundamental planning requirements of the Supplementary Planning Guidance and Development Framework. Such a water basin would breach the land bridge at the western side of the scheme and dislocate the bulk of the land based development from the harbour and town centre.

5.62 Furthermore there would remain a requirement to provide vehicular access to the proposed fish quay, since the existing South Pier was unsuitable for this purpose due to its narrow width and lack of facility for the separation of vehicles and pedestrians. Whilst such an access might be gained by bridging across from the central housing promontory, this would significantly increase project costs by about £2.5m.

5.63 Consideration had also been given to a marina within the existing harbour. It was estimated that a marina of about 200 boats could be installed in the areas of the harbour that are not either used by the fishing fleet or too exposed for pontoon berths. The areas in which the pontoons would be installed would need to be dredged to allow boats to float at low water. This dredging might undermine the structures surrounding the new basin and necessitate extensive strengthening works.

5.64 Alternatively the feasibility of installing a half tide cill in the existing harbour between the Chicken Run jetty and the South Pier had been considered. Such an arrangement would accommodate between 120 and 160 boats.

5.65 In order to achieve this a sheet piled wall would need to be constructed so as to impound sufficient water to enable keel boats to remain afloat. Access to and from the impounded area for keel boats would be restricted to a short window around high tide. Such an arrangement might cost in the region of £3.5m to £4.5m. Construction of the impounding wall might aggravate wave conditions in the existing harbour.

5.66 In the event of a marina being located within the existing harbour the issue would arise of the location of support services. The only areas where such facilities might be installed at the western end of the harbour, which was already heavily used for other land based activities, and an upper deck might be required to provide for car parking. It was unlikely that such an arrangement would be acceptable in planning terms.

Summary

5.67 A decision in relation to the listed building applications involved a balancing exercise. It was certainly the case that the works would affect them and their setting would be altered. The needs of the Bridlington community were such however that change was imperative. There were no other proposals that could bring the required change about. The proposals, which had to be examined against that background, sought to preserve as much of the listed buildings as possible. They would secure the future of the structures and bring about environmental enhancement by the execution of much needed repairs.

5.68 The works would provide the means by which the fortunes of Bridlington could be reversed. Given the conditions proposed and the undertakings given the proposals were on balance acceptable and in view of the positive support of English Heritage, merited consent.

6. The cases of the objectors

The material points were

Introduction

6.1 A significant proportion of the issues raised by objectors at the inquiry were of a procedural nature. These related to the extent of the listed structures and their curtilages and to the approach adopted by the applicants in relation to the scope and detail of the applications. I have dealt with these issues in Part 4 of this report and will not go over this ground a second time except in so far as it may be necessary to refer to such matters in order to fairly summarise the objectors' representations regarding the merits of the proposals.

The setting of the listed buildings

6.2 An aerial photograph of Bridlington harbour taken in June 1977 vividly underlined two important aspects of the setting of the listed structures. First the two piers formed the enclosing defensive walls of the harbour and delineated its limits in relation to the open sea. Second the harbour itself had evolved organically over the years from its medieval origin at the mouth of the Gypsy Race, deriving shelter from the high ground to the north and west.

6.3 The present limits of the harbour were those dictated by topography, and the listed structures appeared as a consequence to be an extension of their natural context. It was this factor which contributed most of all to the popular appeal of the harbour as the focus and principal attraction of the town. Generations of visitors, adults and children alike, had walked from the station to the sea on arrival and had been thrilled by the view from South Cliff Road and sight of the South Pier stretching out to sea towards the harbour light at the end of the North Pier.

6.4 Two other aspects of the setting of the piers were of prime importance. The first was the views obtained from lanes leading down from the main shopping streets to the north, which revealed the existing harbour in all its picturesque complexity. An essential element of these views was the unbroken line of the parapets of the piers, marred though they were by the modern addition to the South Pier. These views highlighted the protective and enclosing function of the two piers as boundaries to the harbour, which was part and parcel of their setting.

6.5 The second aspect was the view of the harbour from the south. An essential element of this aspect was the elegant and functional seaward face of the South Pier, the splendid proportions of which were ever changing according to the state of the tide. Another was the longer view of the piers against the curve of the shore line, the townscape beyond and distant Flamborough Head. These settings of the listed structures called people back to view them time and again.

The effect of the proposals on the setting of the listed buildings

6.6 The impact of the proposals on the setting of the listed structures was set out clearly in the Environmental Statement. This was prepared before the piers were listed, but nevertheless dealt with the impact of the proposals on the landscape character and visual amenity of the harbour at section 4.6.1. The statement found that the impact of the proposals, due to their sheer scale, was likely to have a '*major adverse impact*' on view from South Sands, Princess Mary Promenade and South Cliff Road. In terms of visual impact, the proposals were found to have a '*major adverse impact*' on views from the Spa, South Marine Drive and Pembroke Terrace.

6.7 Table 4.1 of the Environmental Statement defined '*major adverse impacts*' as '*those which are of large scale, giving rise to great concern. They should be considered as unacceptable and may threaten implementation of the scheme*'. The applicants' own Environmental Statement therefore

concluded that their proposals would have an unacceptable visual impact on the harbour area and its landscape character, which by definition is the setting of the listed buildings.

6.8 The proposed infrastructure works would dominate and obscure the listed structures. The land reclamation and infill on either side of the landward portion of the South Pier would obliterate it from sight. The access road with its out of scale ramp and inappropriate footways would dominate and destroy any residual benefit arising out of retention of the parapet of the pier.

6.9 It was noteworthy that no witness had been called by the applicant with specialist architectural skills in the treatment of historic buildings who could be identified as the designer of the works applied for. Successive plans and proposals amending the applications appeared to have been drawn up by a technician in the Council's Highway Department under instruction from senior officers present at the inquiry. The expert instructed by the Council was not asked to express an opinion on the quality of the proposals, nor did he volunteer one.

6.10 The lack of sensitivity and practicality that characterised the applicants' approach were illustrated vividly in Appendix 10, Plates III and V of the evidence of the applicants' Head of Planning and Development Control (*Document APP/AP28*). In that Plate III could be regarded as an accurate indication of the effect of the works when viewed from the end of the North Pier they demonstrated the extent to which its essential nature would be destroyed by the addition of Works No. 2 and the widening of its central length. The delineation of grotesquely inappropriate chain link railings and obtrusive lamp standards did nothing to disguise this damage.

6.11 While the applicants expert witness defended Plate V as being a diagram solely intended to illustrate the height of the dwellings to be sited on the widened part of the listed structure and their relationship with other elements, nothing that was said could mitigate the damaging prospect of this perspective supplanting the existing view looking east towards the pier head and the harbour light at the end of the North Pier as illustrated on Plate IV.

6.12 It was no good the applicants pointing to the illustrative and provisional nature of these illustrations and the computer generated visualisations. They were clearly intended to indicate the effect of the proposals and sufficient could be deduced from them to conclude that the South Pier would be obliterated as a free standing structure and its setting overwhelmed by the vast scale of the works. The view of the length of the South Pier from South Cliff Road, South Marine Drive and the South Beach would be lost as would any longer view from south of the harbour.

6.13 The piers would no longer form the protective framework of the harbour and the South Pier, far from being preserved, would be '*subsumed*' (in the words of the applicants) into the new marina, with the doubtful consolation that at some undefined point in the future it could be '*exhumed*'.

6.14 The impact analysis within the Environmental Statement confined itself, as did the applications, to the infrastructure works proposed, and did not take into account the topside developments, which were the sole justification for these works. It was clear that the topside works would also have a major impact on the listed buildings and their setting.

6.15 The statement explained in paragraph 4.6.1 (iv) that '*the existing harbour is of small scale and has been developed over many years in a pleasantly piecemeal manner, including many architectural styles*'. It predicted that it would be extremely challenging to place a development of this magnitude into the Bridlington townscape without having a significant adverse landscape impact. Given the major adverse effect of the works proposed it was difficult to see how the position could be other than exacerbated by top side development likely itself to have a significant adverse impact.

6.16 The concerns about a major adverse impact led to proposed mitigation measures. In relation to the listed buildings those originally proposed had been successively amended and widened under pressure from objectors at the inquiry. The applicants' plans had been, and still were, in a state of flux and had been prepared on the hoof. Repeatedly during the inquiry the promoters used the term '*nothing has been set in stone*'.

6.17 The limits of deviation shown on the TWO plans applied not only to the generality of the works but also to works which clearly affected the setting of the listed buildings. The Development Framework, which was intended to safeguard the implementation of the top side works so as to mitigate against the adverse impact of the proposals, was itself merely illustrative and was inevitably subject to change in view of the procurement method envisaged. This was no basis on which to place confidence that the result would be acceptable in terms of its impact on the setting of the listed buildings.

6.18 The proposed Unilateral Undertaking provided no certainty that the top side development would proceed either in the form or to the extent that the applicants now envisaged or at all. That would mean, if the applications were accepted, that works would have been approved which had been judged to have a major adverse effect on the setting of the listed buildings without the claimed socio-economic benefits accruing which the applicants clearly regarded as overriding the harm done. For that reason the applications submitted should be regarded as premature and should not be authorised.

Historic and architectural interest of the listed buildings

6.19 The North and South piers together blended architectural and historic interest and had brought pleasure to generations of visitors and local townsfolk. It may have been that some witnesses were unable to articulate the qualities of the piers in architectural vocabulary, but all referred to the personal pleasure they derived from them. It was they who had first mentioned the bible stone string courses and the link between the stones of the North Pier parapet and Bridlington Priory.

6.20 It had been left to an objector to produce to the inquiry the extensive documentary evidence which revealed the distinguished authorship of the design of the South Pier and its origin in an Act of Parliament designed to safeguard coal supplies to London along the north east coast (*Documents OBJ/88,118,118a,142*). The applicants, whose own archives contained much of this material, claimed in the supporting statement to their applications and in evidence that neither pier was associated with any engineer of note. No mention was made by them of the concave faces of the piers.

6.21 Their failure to recognise the historic and architectural character of these listed buildings called into question their claim to have the appropriate expertise at their disposal to discharge the conditions which they had put forward in the event of the applications succeeding. The initiative for the listing of the piers came from local people who now appeared as objectors. The Council had objected to the listing, yet their own expert witness conceded that they were very interesting historic structures which were the subject of growing appreciation as industrial monuments.

6.22 The historical background of the harbour was significant, not least in that Henry VIII was said to have decreed that stone from the dissolved Priory be transported to Bridlington Quay for repair of the harbour. The harbour was also associated with Mary Queen of Scots and Queen Henrietta, wife of Charles I, who took refuge in the vicinity of the harbour after her return from Holland where she had attempted to pawn the Crown Jewels. More recently the piers came under attack from enemy bombers in the Second World War and it is known that SS Gripfast, disabled by enemy action, collided with the South Pier while having difficulty in making the harbour entrance.

6.23 Bridlington harbour had clearly acquired national significance by the first half of the nineteenth century and it was for this reason that the present piers were built to such exacting standards. For over 150 years Bridlington harbour was essential to London's coal trade as a harbour of refuge. A House of Commons Select Committee was ordered to inquire into such harbours of refuge and published its report on 16 June 1836. It concluded that *'every possible facility and security should be afforded to the coal trade, on which the regular supply and consequent cheapness of so necessary an article of consumption to this vast metropolis mainly depend.'* The Select Committee report led in 1837 to the fourth Bridlington Harbour Act and the construction of the South Pier, the North Pier having been constructed earlier in stone at the suggestion of John Smeaton, the designer of the Eddystone Lighthouse.

6.24 The applicants in their supporting statement claimed that neither pier showed evidence of innovative constructional methods. This statement again underlined the lack of care and expertise with which the Council had approached its responsibility. The concrete block construction of the Coode extension may be regarded as such an innovation. Of more importance was the use of cast-iron sheet piles in the construction of the North Pier in 1818. These were discovered in 1982 during maintenance work and described in a publication dated 1850 entitled *'Rudimentary treatise on Foundation and Concrete Works'* by E. Dobson (*Document OBJ/211*). This use predated the first patent for the construction of cofferdams of broad cast-iron piles taken out by a Mr Ewart in 1822.

6.25 The North and South Piers at Bridlington were therefore listed structures of a far greater historical and architectural interest than that ascribed to them in the documents attached to the listed building applications. Any works which were likely to have the effect of causing harm to that interest would need to be outweighed by significant economic benefit to the community and expectations of environmental improvement for consent to be given. Such benefits and effects would need to be assessed in terms of the detailed design of each part of the works affecting the listed structures unless it could be demonstrated that they were an inevitable and indissoluble consequence of the overall development.

The effect of the proposals on the special interest of the listed buildings

6.26 In so far as it was possible to ascertain the effect of the proposed works in the absence of detail and the provisional nature of much of the information given by the applicants, it was clear that the effect of the proposals would be to obliterate from view most of the south face of the South Pier and much of its landward portion. The listed building would lose its essential nature and its architectural and historic interest, which was inextricably bound up with the elegance of its cross sectional design and its length and was heightened by survival of the slipway at its root. All this would be irretrievably damaged.

6.27 The avowed purpose of the amended plans put forward at the inquiry was to expose the parapet and the bible stone string course of the pier for the admiration of appreciative viewers. In this they failed, not least because retention of the parapet would not in any way afford any impression of the pre-existing structure. The parapet (as the proposals intended to leave it) would be a trivial, disproportionate and unrelated remnant. Its retention would represent a totally inadequate response to the historical interest of the listed structures.

6.28 Even the view of that remnant would be obscured by the development of the top side works, the storage of boats and the parking of vehicles on the infilled areas level with the deck of the pier. The inclined access road would obscure much of the view of the retained parapet from the south and even with the lowering of the road alongside the widened section of the pier the ramp up to the level of the fish quay would severely reduce the area of the south face of the pier which would be left exposed.

6.29 It was claimed that reclamation either side of the South Pier at its western end was required to meet the Supplementary Planning Brief and provide a continuous area connecting the development to the town centre. This was a spurious claim since at the level of the deck of the South Pier there was no continuity between the marina site and the town centre, which was sited many metres above the level of the proposed development. The main pedestrian spine shown on the layout to be read with the Development Framework ran at the level of the Promenade and not at the level of the South Pier below.

6.30 The widened portion of the pier was intended to accommodate development which would be highly visible from both sides of the original pier and would introduce a highly inappropriate residential element, complete with domestic curtilages and car parking, in this prominent and sensitive location. The larger extension represented by the fish quay, though reduced by 20%, would similarly destroy what remained of the architectural and historic interest of the pier head by reducing it to a residual protuberance.

6.31 With regard to the North Pier, the proposed extension would be more than twice the length of the listed building. This could not be considered a sensitive extension within the meaning of paragraphs 3.13 and C7 of PPG15. The computer generated visualisations produced by the applicants illustrated vividly how as a consequence the architectural character of both piers as massive protective walls would be destroyed.

The approach adopted by the applicants

6.32 When the piers were listed, the Supplementary Planning Brief should have been amended to allow retention of the South Pier and its setting when viewed from South Cliff Road. Alternative layouts were available even if it were accepted that a marina to the south of the harbour was the only feasible option, and should have been explored. These could have arranged that most of the south elevation of the pier faced on to the marina basin. Even with the creation of a lowered development site at the landward end of the South Pier, the larger part of the slipway, its apron and retaining wall, all of which had been shown to be important elements in the architectural and historical interest of the listed building, would be buried below ground.

6.33 The options put forward by the applicants at the inquiry did nothing to overcome the fundamental objections to the scheme. Indeed they amplified concerns that the proposals were indicative and subject to change. They underlined the crucial interrelationship between the top side works and the infrastructure works in that they demonstrated that an alternative design for the topside works could bring about significant changes to the works actually applied for.

6.34 Following the listing of the piers in January 2001 the Council should have embarked on a fundamental review of the marina proposal having regard to the provisions of PPG15. This fundamental review should have examined alternative locations, sites and designs for both the marina and the top side works. Their failure to do this had led them into a situation where they were obliged to put forward ill considered amendments and options under pressure at the inquiry.

6.35 Their lack of sensitivity and practicality was vividly illustrated by their proposal to resurface the deck of the piers in paviers without any regard for the conditions to be expected in such a dockside environment. The hastily produced rough sketch of the walkway through the parapet, produced in response to the observation that the change in level proposed in the optional layout could not otherwise be negotiated, highlighted the lack of thought and casual attitude adopted by the applicants to the listed structures and the overall concept.

Role of English Heritage

6.36 The fact that the applicants had felt it necessary to continually amend their proposals at the inquiry also reflected badly on the way English Heritage had felt able to endorse the original proposals, which had been effectively unravelled under pressure from objectors, particularly in view of their initial objections in April 2001.

6.37 The only reasonable explanation for this change of heart on the part of English Heritage was that they were held to an extremely restricted brief to consider only the works applied for, accepting without question that their explicit concerns regarding the topside works could be dealt with at a further detailed stage and could be safeguarded by the imposition of conditions. The objectors fundamentally disagreed with this outline approach, which was contrary to the provisions of PPG15.

Engineering considerations

6.38 There was a body of responsible evidence that warned of the dangers of dredging too close to the listed piers for fear of causing instability and structural failure. The proposed outer harbour would be dredged to 1.5m below Chart Datum but according to the Environmental Statement Figure 2.3 page 34 dredging would be curtailed north of the proposed lock entrance to avoid undermining the heads of both piers. The dredged bed level at the proposed fish quay would be between 0.1m above Chart Datum to 0.3m below Chart Datum.

6.39 Despite these precautions there remained the possibility of erosion of the clay substrate at the toe of the South Pier due to the removal or regrading of the sand that overlaid it as a result of dredging. Insufficient was known regarding the depth of the clay to tell whether or not this would occur, with consequent undermining of the listed structure. Any proposals which involved dredging around the existing harbour entrance were therefore premature.

6.40 The structural concept of the South Pier was to create two masonry walls forming the seaward and inner faces tied together at intervals with wrought iron ties set in cemented chalk rubble cross walls. However, neither the seaward or inner walls were of monolithic construction as both consisted of an outer sandstone skin bonded to an inner skin of chalk rubble set in cement.

6.41 While the majority of the structure had been found to act in the way the designer intended local settlement had occurred over the years. During the 1920s and 30s and again in 1982 works needed to be carried out to the North Pier where voids were found in the heart of the structure. In the case of the South Pier, survey work had not conclusively established the cause of changes in level following repairs, high ground water pressures and outward movement of lower masonry courses.

6.42 Differential settlement caused by the construction of the extensions to the South Pier might well cause the cross walls to rupture and the chalk rubble inner skins of the facing walls to separate from the sandstone outer skins, leaving the whole structure dangerously weakened. This possibility was heightened by the suspected presence of a fresh water spring beneath the South Pier. This would explain the high ground water pressures found by survey and the formation of ice within the harbour along the edge of the pier in cold weather, indicating lower than normal levels of salinity. It was known that springs abounded in the harbour area.

6.43 If water from any source resulted in a high water table in the fill placed against the South Pier the danger of structural failure was greatly increased. The failure mechanisms which had led to local failures should therefore be thoroughly investigated before any works were approved which could ultimately threaten the structural integrity of the listed structure.

6.44 Water could enter the fill not only from undetected ground water but also from inundation due to overtopping of sea defences. It was already known that flooding could occur at the north quay of the harbour. Overtopping of the new Southern Breakwater, which was a distinct possibility taking into account predicted wave heights in the North Sea, could well overflow the marina basin if the lock gates were kept closed in exceptional storm conditions. The resulting inundation of the area surrounding the South Pier and leakage into the fill through the sheet piling and other elements of the structure could well contribute to a dangerously high water table, leading to lateral pressures on the South Pier that the existing structure could not resist.

Socio-economic justification for the works

6.45 PPG15 was extremely clear about considerations which related to the impact of any proposals on listed buildings. The starting point was to have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Whether defined as alterations and extensions or demolition, the works were so significant as to require consideration against the criteria set out in paragraph 3.19 of PPG15.

6.46 In this respect the proposals were not put forward as a means of improving the condition of or repairing the South Pier. The pier already had a beneficial use which it was performing in a satisfactory manner, being well maintained. The proposed schedule of repairs was essentially cosmetic in nature. The existing building at the head of the South Pier had a certain aesthetic merit. There was no evidence that the applicants had looked at the possibility of retaining the listed building in its current use as a pier. No alternative proposals had been properly considered for the setting or design of the works that impacted on the listed structures.

6.47 The only remaining criterion that could properly be evaluated was whether the works brought about such substantial benefits to the community as to outweigh the presumption in favour of

preservation. Leaving aside the argument that the claimed socio-economic benefits of the marina arose not from the works applied for but from the topside development, the applicants were obliged to demonstrate that the configuration of the works applied for was essential for the delivery of those benefits. No such demonstration had been made.

6.48 It was claimed that the configuration of the works affecting the South Pier was the product of the applicants' decision to enlarge provision for the local fishing industry at the head of the South Pier by creating a large peninsula development to house commercial sheds and other facilities. This extension would also include provision for a prominent landmark building for the Royal Yorkshire Yacht Club and for Bridlington Lifeboat. No evidence whatsoever had been provided of the socio-economic benefits accruing from the location of the yacht club at the end of the listed structure, and this failure had resulted in the removal (without explanation) of this feature, which had figured prominently in the supporting visualisations. The speculative location for the RNLI was drawn in a silly position without the approval of the RNLI with no thought for emergency access at the end of a congested cul de sac.

6.49 There remained the claimed socio-economic benefits arising from the enlarged provision for the fishing industry. The facilities designed for fishermen however already existed and there was no demonstrable need for large investments. There were no economic advantages to the local shell fish industry arising from the proposed extension to the South Pier. Despite intense lobbying by the promoters of the marina proposals no representatives of the industry had come to the inquiry to outline the claimed benefits, and the applicants overtures had been met with caution and suspicion.

6.50 The harbour master had given evidence that the existing arrangements for the fishing industry worked well and that there was a good relationship between the Harbour Commissioners and the fishing industry. There were sufficient deep water berths at the head of the South Pier to accommodate the existing fleet of larger vessels. There were convenient facilities for the hauling out and beaching of vessels and for the storage and maintenance of gear. This view was supported by individual owners.

6.51 The Bridlington and Flamborough Fishermen's Society had made a written submission dated 2 November 2001 confirming that fishermen already enjoyed the majority of the facilities proposed by the applicants. While there was undoubtedly room for improvement of those facilities there was a limit to how much fishermen could afford to pay. The existing facilities were adequate. A boat hoist was already available without the inconvenience and additional cost of locking in and out of an enclosed basin. There was no way in which the works proposed would assist the sustainability of the fishing industry in Bridlington.

6.52 This submission had not been withdrawn or qualified despite a later meeting on 27 December 2001 when the Chairman of the Yorkshire Marina Partnership Board sought to persuade fishermen of the benefits of the scheme. There was no evidence that the notes of that meeting were an agreed minute of the proceedings.

6.53 Other written submissions on the part of larger trawler owners in support of the proposals should be read against the background of the decline in that part of the industry, which many claimed was irreversible. One such submission on behalf of visiting European fishermen overlooked the fact that dredged depths in the outer harbour would be insufficient to meet their stated requirements.

6.54 Such written submissions hardly amounted to the kind of endorsement that was required to outweigh the presumption in favour of preservation of the listed buildings in their current use unaffected by the proposed works.

6.55 Without the required justification for enlarged facilities for fishermen, including parking and access for large commercial vehicles to the fish quay, the applicants case for widening the South Pier and extending its seaward end lacked credibility. No socio-economic justification had been put forward for the housing on the widened portion. The proposed configuration of the extension works had not therefore been justified.

Summary

6.56 Any case that the proposed marina works would bring about such substantial benefits to the community that an exception to the normal arguments in favour of preservation of the setting and character of the listed buildings could be approved would need to be, by definition, exceptional. The harm contemplated was obvious, extensive and admitted by the applicants.

6.57 The socio-economic benefits which could be set against that harm would arise, if at all, not from the configuration of the works proposed, but from topside developments about which no aesthetic judgement could be made and which in any event might not come about.

6.58 Notwithstanding this fact, even if a case could be made, no attempt had been made by the applicants to demonstrate that the configuration proposed was the only possible solution, either in layout or design. The case for listed building consent for the works had not therefore been made.

7. Conclusions

Bearing in mind the above considerations my conclusions are as follows. The references in square brackets are to preceding paragraphs of this report.

The main issues

7.1 The main issues in relation to the listed building aspects of this case are those generally applying to listed building applications, as set out in Part 1, section 3 of PPG15, Listed Building Control, as follows;

The effect of the proposals on the listed buildings, bearing in mind their importance, their intrinsic architectural and historic interest and particular physical features, including their design, plan, materials or location, which justify their listing.

The effect of the proposals on the setting of the buildings and their contribution to the local scene, either singly or as a group.

The extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment.

Additionally, where the proposals entail substantial works of alteration, extension or demolition, as they do in this case, the following supplementary issues apply. In judging these issues it is essential to have assessed the elements that make up the special interest of the buildings. I interpret these issues as dealing with the possibility of maintaining, retaining and incorporating the listed buildings as they stand without such substantial works.

The condition of the listed buildings, the cost of repairing them and maintaining them in relation to their importance and to the value derived from their continued use.

The adequacy of efforts made to retain the buildings in use.

The merits of alternative proposals, and in particular the feasibility of incorporating the listed buildings within the new development.

The approach adopted by the applicants

7.2 I have already concluded in response to procedural submissions that the approach taken by the applicants is seriously flawed in that they elected to restrict their applications to the infrastructure works which are the subject of the Transport and Works Order and explicitly ruled out of consideration any buildings or other fixtures to be attached to those infrastructure works which represent extensions to the listed buildings [4.67-68]

7.3 I have also said that I know of no requirement or statutory guidance relating to the Transport and Works Act which makes it necessary for an applicant to adopt this approach [4.63]. Notwithstanding the approach adopted in respect of the deemed outline planning permission in this case, which is not for me to advise on, it would have been quite feasible for the Council, when the piers were listed, to review the whole case in relation to the listed buildings, as suggested by the objectors [6.34], and elect to prepare appropriate details of buildings and fixtures intended for the fish quay and the widened portion of the South Pier.

7.4 Such a course of action need not in my view have required more details of the topside development generally, since I have already concluded that the extensions to the South pier are defined as Works No 2 and that part of Works No 5 which makes up the widened portion of the listed building [4.5].

7.5 Such a course of action also presented itself during the inquiry after the matter was raised by me, but the opportunity was not taken. Instead the applicants used the available time to commission expert evidence to argue that there was sufficient information to determine the applications and that a two stage approach was appropriate. I have already said that I consider those arguments to be unconvincing [4.63].

7.6 Counsel for the applicants in closing explicitly confirmed that the Development Framework, the Master Plan attached thereto and the Unilateral Undertaking were not relevant to the listed building applications [4.41]. I take this to mean that the fifth covenant to carry out the top side development as set out in the Unilateral Undertaking carries no specific implication as to the form or content of any such top side development generally and in particular the configuration or design of any buildings or fixtures to be placed on extensions to the South Pier.

7.7 It is therefore very difficult to see how any material put before the inquiry which purports to set out the effect and benefits of the topside development as a whole, including development which is the sole justification for the extension works applied for, may be weighed in the balance when arriving at a decision in respect of the listed building applications.

7.8 Given the approach of the applicants however, it is clear that any recommendations in this case have to be based on the applications as submitted, however unsatisfactory that approach might be, and I confirm that this is the case.

The role of English Heritage

7.9 The applicants set great store by the response of English Heritage to the applications [5.30]. However this response was not unequivocal and merits some examination. The applications were approved by the Local Planning Authority before the response of English Heritage to consultation was made known [5.12,5.17]. That initial response was critical and confirmed English Heritage's unhappiness with the limited information made available. The Council were informed of the requirement to more fully assess the needs and/or benefits of the proposed scheme.

7.10 A later letter dated 27 July 2001 confirmed that there was inadequate information to fully assess the impact of the proposals [5.19]. This concern was repeated in yet a further letter dated 28 August 2001, focussing on the impact of the residential development that would back on to the South pier. This letter notes however that this and other development was to be the subject of a future planning application in the context of a Development Framework and in later correspondence the concerns appear to evaporate [5.21].

7.11 Given confirmation by counsel for the applicants that the Development Framework is not relevant to the listed building applications it would appear that any undertakings given to English Heritage in August 2001 would have at best been ill thought. The additional material produced by the applicants following the initial critical comments hardly amounts in my view to the kind of essential detailed information required in order for the Secretary of State to arrive at a decision.

7.12 Careful reading of the report of the review of English Heritage's advice carried out at the request of the objectors indicates that in the meantime English Heritage would have been briefed regarding the approach to be adopted by the applicants in this case, which was that an approval under the Transport and Works Act would effectively grant outline permission for the construction of the marina and associated land reclamation works. Accordingly English Heritage confined its response to a consideration of the listed building aspects of the outline proposals only and reserved its position in relation to the topside works. Reference is made to the restricted scope of their comments [5.24].

7.13 I find it difficult to reconcile this restricted approach with statutory advice in paragraph 2.12 of PPG15, which states that it is unlikely that applicants will be able to show that they have had special regard to the desirability of preserving a listed building or its setting unless the planning application is accompanied by a listed building application or at least contains an equivalent amount of information. In this case buildings which vitally impact on the both the character and setting of the listed buildings,

being placed on extensions to the South Pier and are the *raison d'etre* of those proposals, are neither described in sufficient detail in the planning application or the listed building application.

7.14 Given my conclusion that there is no requirement or justification in this case for applying the two stage procedure of the TWO application to the listed building applications I place relatively less weight on English Heritage's assessment of the merits of the proposals than I would otherwise [4.63]. In doing so I take into account the answer to a written question by English Heritage's representative at the inquiry which confirmed that he had not examined in any detail the justification for the proposals as required in paragraph 3.4 of PPG15 [5.26].

7.15 In not doing so he had relied on the applicants' judgement and expertise [5.27]. This would indicate, in my view, an unjustified assumption that the applicants, being also the Local Planning Authority, would have adequately addressed this issue. Paragraph 3.38 of PPG15 stresses that the Secretary of State will be particularly concerned to ensure that Local Planning Authorities take full account of the policies therein set out. I am therefore not able to make the same assumption as did English Heritage.

Origin and development of the proposals

7.16 At the inquiry I found the authorship of the design proposals to be shrouded in obscurity [5.5]. The only witness for the applicants who claimed to be a designer was the representative of the Council's engineering consultants. While I found him to be a convincing witness on engineering aspects he agreed that he had no architectural expertise and no specialist knowledge of historic buildings [6.9]. The conservation officer of the Local Planning Authority was not called to give evidence, nor was any person with architectural qualifications identified as the author of the listed building applications. It was noteworthy that the drawings produced at the inquiry showing further options and amendments were produced anonymously [6.35].

7.17 Paragraph 3.15 of PPG 15 makes clear that achieving a proper balance between the special interest of a building and proposals for alteration or extension is demanding and should always be based on specialist expertise. Paragraph 5 of Annex A stresses that the availability of advice from English Heritage does not relieve authorities of the need to ensure that they have their own expert advice suitably deployed. It is noteworthy that on the one hand the applicants rely heavily on the support expressed by English Heritage while on the other the latter express every confidence in the expertise of the applicants in giving their support [5.27,5.30]. I have to say that if any such specialist expertise was deployed in preparing the applications this was not evident at the inquiry.

7.18 The earliest marina layout that I have been able to identify from the evidence as a whole is a plan prepared by the Council's consulting engineers included in the Stage 1A report of the Bridlington Marina Feasibility Study to the Bridlington Regeneration Partnership dated June 1998 [5.5]. This layout differs crucially from the submitted applications in that there is no widening of the South Pier, no fish quay, no infilled area within the existing harbour and no extension to the North Pier in the form of an eastern breakwater.

7.19 I appreciate that the purpose of this report was to explore the socio-economic potential of the scheme as a whole and that engineering considerations relating to the outer harbour had not been addressed. However it is clear that provision for expansion of existing facilities for the fishing industry at the end of the South Pier did not figure at all at this stage in either the layout or the socio-economic benefits identified. It cannot therefore be claimed that the extensions to the South Pier have their origin in this study.

7.20 The next document containing draft layouts is the Final Outline Stage Report of the Council's consulting engineers dated February 2001 [5.5]. Attached as Appendix C of this report are a series of basic freehand sketches dating from September 1999. None of these show any widening of the South Pier or a fish quay at its head. Their authorship is unknown. These sketches are followed by a more elaborate freehand sketch entitled 'Revised Sketch Layout' dated 26 November 1999. In answer to a question of clarification the Council's consulting engineer confirmed that he was not the author of this

sketch and although he indicated that it had been prepared by a member of staff of the Local Planning Authority he did not identify any individual [5.5].

7.21 This sketch indicates the South Pier completely incorporated into the marina works, a widened portion extending over about 75% of its length and turning south eastwards to provide a quay in much the same position as Work No. 2. However, this entire area is allocated to B1 business use with single aspect residential accommodation above in the area parallel with the pier and more B1 business use, together with boatyard facilities and a yacht club on what is now the fish quay.

7.22 The layout, which incorporates some of the features of the submitted applications, makes no mention of facilities for the fishing industry. Paragraph 2.1.4 of the report does however mention the opportunity presented by the development to improve existing facilities for fishing vessels. These improvements relate to navigation considerations, but in addition a marina to the south of the harbour would allow the South Pier to be widened and thus enable existing facilities to be upgraded without fundamentally changing the way the harbour operates. Commercial use is suggested on the sketch for the quay facing the harbour, and I therefore interpret these proposals as indicating an improved fish quay in this location and not on the south side of the pier head.

7.23 There follow two undated engineering sketches showing alternatives for a non tidal marina basin with an impounding wall connecting the South Pier and the Southern Breakwater in which is located a lock. One of these has an outer harbour not unlike the submitted proposals. There is no feature corresponding to the fish quay.

7.24 The report itself includes no analysis of any of the sketches included in Appendix C except for a brief reference in paragraph 2.2.1 dealing with alternative configurations of the harbour entrance. The Council's engineer confirmed however that the engineering sketches, particularly the one with the south facing entrance to the outer harbour, showed in sketch form a design which was essentially feasible. There is no further discussion of alternatives and thus no evidence to show compliance with the requirement in paragraph 3.19 of PPG15 to consider the merits of alternative proposals for the site or the adequacy of efforts made to retain the listed pier.

7.25 This issue is glossed over in the statement accompanying the listed building application for the South Pier [3.27,3.34]. In relation to the merits of alternative proposals for the site, paragraph 5.13 only deals with the Wilsthorpe proposals, which are in an entirely different location. In relation to the adequacy of efforts to retain the listed pier in use the extraordinary claim is made that the redevelopment will retain the South Pier as a specific part of the marina development. This is clearly not the case. No mention is made of consideration of a marina in the existing harbour or any of the alternative layouts set out in the report issued a month earlier in February 2001.

7.26 The sketch layout dated 26 November 1999 followed immediately after adoption of the Council's Supplementary Planning Brief on 21 October 1999 and was itself a revision of an even earlier layout. By the time the Development Framework and its attached Master Plan came to be adopted in September 2001 the piers had been listed for nine months, the listed building applications submitted for eight months and the TWO application lodged with the Secretary of State for nearly a year [5.2,5.5].

7.27 The proposals to widen the South Pier and build a substantial extension south of the pier head, thus transforming the listed structure into an enlarged quay, appear to stem not from the Supplementary Planning Guidance and preparation of the Development Framework but from a much earlier decision making process. It was not until 19 October 2001 that the Bridlington and Flamborough Fishermen's Society were consulted about the provision of enhanced facilities [6.51,5.36]. This was nearly two years after the preparation of the layout showing the South Pier widened and extended and eight months after it was incorporated in a report to the Council.

7.28 It appears from the evidence therefore that the Development Framework and its related visualisations and Master Plan are no more than a post-justification of decisions already made nearly two years previously. These are enshrined in an anonymous layout that makes no mention of a fish

quay, shows enhanced facilities for fishermen within the existing harbour and B1 business use with residential accommodation above on the widened South Pier.

7.29 This evidence is hard to reconcile with the response to objectors by the applicants' Head of Planning and Development Control in paragraph 5.11 of his proof of evidence that the Development Framework is to be regarded as the source of guidance to the relationship of the listed structures and the land-based development [5.3-5.6].

Further options and amendments

7.30 The objectors claimed that each of the proposed amendments and options stemmed, not from a considered assessment of the elements that make up the special interest of the listed buildings, as required by paragraph 3.12 of PPG15, but following the raising of these matters in questions of clarification [6.33]. The proposals were originally ill considered and hastily produced under pressure of time following the unexpected listing of the piers. The response of the applicants to these criticisms was that this demonstrated the willingness of the Council to listen to objections and take them into account.

7.31 I consider it noteworthy however that it fell to an individual objector to discover and present important historical evidence held in the Council's archives which led directly to the option of reducing the level of land reclamation around the root of the South Pier to expose the upper part of the historic slipway [4.13-4.34]. Paragraph 4 of Annex C of PPG15 stresses the importance of such research.

7.32 Even in this case the initial option proposals required significant amendment following questions of clarification and the result in my view does nothing to overcome the fundamental objection, which is that the land reclamation works destroy the setting of the listed buildings when seen from an important viewpoint on South Cliff Road, bury the larger length of the slipway and cover the all important junction and apron between the slipway and the South Pier [6.11].

7.33 I place little weight on the argument of the Council's Head of Planning and Development Control that an alternative proposal to extend the marina basin up to the root of the South pier, (thus retaining the historic slipway in use) would be in breach of adopted Supplementary Planning Guidance [5.60]. The proposals to widen the pier and bury the slipway under land fill predate adoption of this document, which was itself issued before the pier was listed. The presumption in favour of preservation and the statutory guidance in PPG15 take precedence over such local guidance. Any proposal should be considered on its merits.

7.34 In any event, the justification for this argument, which is that a land bridge is essential in this position, is belied by the fact that the pedestrian spine linking the development areas to the south of the South Pier to the town centre is designed to be located at the level of the South Promenade, several metres above the level of the marina. Moreover, this argument does not answer the objectors' point that a land bridge at this lower level would do little to connect the marina development with the town centre, which is at a higher level still [6.29].

7.35 Objection is also raised to an inner basin on the grounds that a bridge would be required to carry the access road on to the South Pier extension [5.61]. This pre-supposes that there is justification for such a road, but in any event it would be quite feasible to incorporate such a bridge, which need not be elaborate or particularly costly in relation to the scheme as a whole if only unmasted vessels were accommodated in an inner basin.

7.36 Such a bridge would in my view quite adequately provide the required pedestrian link with the development site within the harbour and could provide an attractive feature and view point within the context of an inner basin incorporating retail and recreational facilities such are found in other marinas. The fact that alternatives such as these were not examined is of concern bearing in mind the encouragement in paragraph 3.15 of PPG15 to adopt an imaginative approach.

7.37 Reduction of the area of the proposed fish quay came about by the sudden decision to omit the clubhouse for the Royal Yorkshire Yacht Club, a highly articulated building in the post-modern style which had hitherto been the most prominent feature of the Development Framework visualisations (and the only structure shown on Work No. 2) [5.43].

7.38 No details whatsoever were put forward of this dominating element. There was no indication of the number of storeys in the building, its height, the materials of which it is to be constructed or the accommodation within it. Moreover no attempt was made to provide any economic or environmental justification for the building or its siting on an extension to the listed structure.

7.39 Work No. 2 is nevertheless retained in order to accommodate facilities for the local fishing industry. The proposals involve demolition of the existing building at the head of the South Pier and its replacement with new buildings, details of which have not been provided. I do not agree with the assessment of the Harbour Commissioners' consulting engineer that the existing building has considerable appeal [6.46], but I do not accept that a proposal to demolish it should be accepted without some tangible reassurance, in the form of detailed proposals, that it would not be replaced with something far worse.

7.40 Again no architectural details of these facilities have been provided, either in written or drawn form. Neither the height of these buildings nor their general configuration have been indicated. No list of other fixtures to be attached to this extension has been provided despite the likelihood that it could not function as a fish landing quay and boat repair facility without extensive and prominent mechanical and other equipment. The impact of this extension in its final form is therefore unknown.

7.41 The amendment to the access road alongside the South Pier came about as a result of questions of clarification which exposed the lack of thought given to the implications of those preceding, culminating in a hastily prepared and ill conceived freehand sketch of the way pedestrians, including the disabled, might negotiate the difference in level arising from the proposal to lower the road and its adjoining footways below the level of the South Pier, leaving gaps in the retained parapet [6.34-6.35].

7.42 A similar unforeseen problem arises from the decision not to lower the entire width of this extension, but since in this case there was no prompting, no explanation was forthcoming of how the occupiers of the dwellings backing on to the South Pier could park their cars or gain access to their domestic curtilages if, as proposed, the road was lowered but the plots so served remained at the higher level [5.42].

7.43 The reluctance of the applicants at the inquiry to accept the extent of the impact of their proposals on the listed buildings, their unwillingness to accept the validity of the historic information which justified redrawing the extent of the listed structure of the South Pier and their consequent adherence to their original proposals, which is underlined by the optional nature of their later amendments, are all in my view material to a decision in this case [4.13,4.36]. The fundamental basis of the applicants' case is that they can safely be left to determine any later listed building applications for the topside developments that are excluded from these partial applications [5.37]. In this they are supported by English Heritage.

7.44 I agree with the objectors however that the further options and amendments put forward by the applicants at the inquiry do little to overcome the fundamental objections to the applications but rather emphasise their indicative and changeable character [6.33]. I deal with these options in paragraph 7.52, 7.54 and 7.78. I note that English Heritage's approval of each and all of these alternative amendments and options followed their uncritical acceptance that their concern that the South Pier still reads as a separate structure could be met as originally proposed through the use of contrasting floor surface material [5.20].

7.45 The presentation of such options for alternative consideration by a decision maker is in my experience rather an unusual approach for an applicant to take. One would expect an applicant to have employed specialist expertise to arrive at an optimum design solution before making an application for consent and for English Heritage, where appropriate, to have made a judgement as to whether such an optimum solution had been arrived at. It is not the role of the decision maker to pick

and mix optional variations. Moreover the applicants equivocal attitude to their own options in my view underlines the objectors' concern that fundamental outstanding matters might be left in the hands of the applicants as Local Planning Authority.

The special architectural and historic interest of the listed buildings

7.46 In my view, the special architectural and historic interest of these listed piers is seriously understated in the application documents [5.13-16]. The wording of relevant sections takes no account of obvious features that are immediately apparent from even cursory on-site examination, such as the concave curves of the battered outer walls, the bible stone string courses and the subtle differences between them. These features are also apparent on the drawings submitted with the applications.

7.47 Neither does the wording of the application statement take account of the detailed information included in the Interim Report of the South Pier Investigation - Stage 1 carried out by the Council's consulting engineers. This shows that the consultants knew of the existence of the construction drawings of the pier and the names of their designers [5.56]. Even the most basic research into these matters would have led to a reconsideration of the claim that the pier is not associated with any engineer of note

7.48 My own assessment of the special architectural and historic interest of these listed structures is set out in paragraphs 3.10 to 3.26 of this report and need not be repeated. I accept that the objectors in this case were less than eloquent in describing the architectural merits of these listed structures [6.19]. Part of their difficulty may in my view be ascribed to modern distinctions between architecture and engineering based on professional disciplines, which were by no means so obvious in the 1840s. Consequently the layman is reluctant to ascribe specific architectural qualities to such massive engineering structures. That the elegant configuration of the piers, both in plan and section, has a high architectural quality, is however not open to doubt.

7.49 Less doubt applies to the historic interest of these piers, which was expressed eloquently in the submissions of the objectors [6.19-6.24]. These were in marked contrast with, and in my view more accurate than, the conclusion of the applicants in paragraph 5.5 of their application statement that *'the South Pier is of historic interest only as a feature illustrating the history and development of the port...'*

The effect of the proposals on the character of the listed buildings

7.50 With regard to the South Pier I have already concluded that the slipway at its root is not only part of the listed structure but is a significant element of the overall design which adds greatly to the historic interest of the whole. This is due to its dual function as a sea defence and an access to the South Beach and the way it was progressively improved during the nineteenth century to counter the erosion effect of the sea and the impact of the *'great flank wave'*, as is apparent from even superficial examination [4.21].

7.51 Destruction of the slipway by its burial under land reclamation and development would in my view severely harm the special historic interest of the listed structure as a whole. The retention of a small upper portion through lowering the fill level, as shown in Option 3 [5.45] would not in my view significantly reduce that harm.

7.52 In the same way, destruction of the larger part of the main south elevation of the South Pier by its burial under land reclamation would in my view severely harm its architectural and historic interest. The retention of 95% of the parapet as a residual feature [5.41], as pointed out by counsel for the Harbour Commissioners, would convey nothing of the scale and monumental quality of the whole and do little to reduce the harm done [6.27].

7.53 While the lowering of the proposed access road to expose the bible stone string course and some of the concave stones is an improvement to the original proposals it is clear that the ramp up to the

fish quay severely restricts any benefits arising from this amendment. The lowered level would not extend to the full width of the extension carrying the road, thus severely restricting any visual impact of this measure [6.28]. I do not therefore consider that the harm done to the listed building would be significantly reduced by this amendment.

7.54 I have also concluded that the proposals also involve significant extensions to the South Pier. The extensions involve widening the South Pier by an amount left uncertain, as shown on the drawings submitted [3.38]. They also involve placing a significant extension against the pier head. Although reduced in width in Option 1 [5.42], this extension would still be out of scale with the listed building and the two extensions taken together would destroy its essential nature as a pier and transform it into a retaining wall to a quay.

7.55 I reject the claim of the applicants that the pier is incorporated into the works and that thus its character is retained [5.39]. As stated by the applicants' own expert witness, *'the nature of a pier is that it sticks out into the sea and is surrounded by water at high tide.'* It seems therefore obvious to me that the essential nature of this listed building would be destroyed by the proposals. The pier would cease to exist as such, part of its north elevation becoming a quay and the remainder surviving (in the original proposals) as an outline marked out by contrasting floor surface materials and a line of parapet stones.

7.56 It does not in my view assist the applicants' case to argue (in the supporting statement to the application documents) that *'the existing South Pier will remain in situ, but with approximately 130 metres of the north side of the pier, and almost all of the south side subsumed within the Marina Development'* and to claim (in counsel's closing statement) that the works amount to preservation.

7.57 I do not come to the same conclusion with regard to the application in respect of the North Pier. While the Eastern Breakwater is much longer than the original pier the North Pier will still retain its essential nature and function. All but a small part of its elevations will be visible and it will remain surrounded by water on both sides. I accept that on the whole little significant harm would be done to the special architectural and historic interest of the North Pier as a result of these proposals. That is not to say that a shorter extension would not be a considerable improvement in terms of its overall effect on setting. I deal more fully with the effect on setting below.

The effect of the proposals on the setting of the listed buildings

7.58 I consider the effect of the proposals as a whole on the setting of these listed structures to be overwhelming. In arriving at this conclusion I have taken into account the results of the applicants' own Environmental Impact Assessment [6.6-6.7]. I also place weight on the argument of the objectors that the harbour at Bridlington has evolved out of its sheltered setting at the mouth of the Gypsy Race under the protection of high ground to the north [6.2].

7.59 While I accept that previous enlargements of the harbour basin were just as extensive in proportional terms, they did not extend the harbour basin beyond its original setting as do the current proposals. In terms of their scale and extent therefore they cannot be regarded as a continuation of that historic evolutionary process [5.49]. The extensions to the two piers taken together would dwarf and dominate the environment of the harbour, obscuring its historic interest.

7.60 In particular the crucial views of the length of the South Pier leading to the harbour light on the head of the North Pier from South Cliff Road and the Spa, with the open sea beyond, would be lost. The extension to the North Pier, by closing off the long view of the sea from the shore, contributes significantly to the overall loss.

7.61 However, it is the widening of the South Pier to form a quay (shown as indicative on the application drawings) which is the most damaging element in relation to this aspect of the setting of the listed buildings. Yet no economic evidence has been put forward in justification of this extension. It is certainly not claimed that this element of the works is crucial to the economic success of the marina as a whole or its efficient operation.

7.62 In the absence of the proposed terrace of housing there would be no justification for widening the pier over this length to more than about 18 metres, which would be ample to accommodate the road. The response of the applicants to submissions on this point was to argue that the omission of the housing need not have any material effect. Clearly this would not be so in the absence of any alternative justification.

7.63 In the absence of any economic justification one would expect the widening of the pier to lead to the enhancement of the environment of the surrounding area. The applicants have provided some indicative visualisations and a diagrammatic perspective which, it is claimed, sets the design parameters for the proposed housing. It appears that these parameters relate solely to the height of the ridge, but the perspective enables a comparison to be made between the existing setting of the pier, when viewed from the shore, and the ultimate effect of its widening .

7.64 The evidence submitted, sparse though it is, is in my view sufficient to demonstrate that, far from resulting in an environmental enhancement, any development at the level of the pier in this location would represent a major and inappropriate intrusion into the setting of these listed structures. The widening of the pier is not therefore justified.

7.65 The road itself in my view represents a major intrusion into the setting of the piers where it ramps down from South Cliff Road. Its original alignment was strikingly insensitive to the setting of the listed buildings. While the amended alignment of the ramped section is an improvement I consider that its impact on the overall setting of the two piers would be unacceptable due to the height of this structure and its intrusion into the view from the Spa and locations to the south [6.8]. It is noteworthy that this prominent feature was not shown on the application drawings.

7.66 I do not consider on the whole that the long views of the setting of the listed structures from other viewpoints are so important. In particular the length of the South Pier set against Flamborough Head would be replaced by a not dissimilar view of the Southern Breakwater [6.5].

7.67 However, considering the likely impact of the proposals when viewed from the town centre, the harbour, from South Cliff Road, the Spa and the South Beach, these being the most critical viewpoints, I conclude that the setting of these two listed structures would be irreparably harmed if these applications, taken together, were to be approved.

Engineering considerations

7.68 I place little weight on arguments that the works proposed are necessary in order to safeguard the maintenance of the listed structures [5.56]. The applicants argue that if the proposals are not accepted rock armour would need to be placed on the south side of the South Pier in order to prevent erosion. This pre-supposes that no alternative proposal for a marina on the south side of the South Pier would be acceptable in terms of its impact on the listed structures. This can not be presumed.

7.69 Secondly, the argument presumes that listed building consent would be forthcoming for such proposals. Again that can not be presumed. English Heritage have reserved their position on this point. It is clear that the existing piers serve an useful and on going function and perform that function adequately. It is stretching a point to claim that the applications have been submitted in order to safeguard future maintenance of the piers, and I agree with the objectors that the larger part of the scheduled repairs agreed with English Heritage are cosmetic in nature [6.46].

7.70 I have carefully assessed the engineering evidence on both sides with regard to the existing condition of the piers and the likely effect of the proposals on their structural stability and future integrity [5.50-5.55] [6.40-6.43]. It is clear that in transforming the South Pier into a retaining wall forces will be exerted on the structure for which it was not designed. I also accept that dredging in the vicinity of the pier heads has its risks.

7.71 I consider however that the measures put in place by the applicants' engineers would, if the applications were to be accepted, serve to ensure that the structural integrity of the listed buildings would not be adversely affected [5.52].

7.72 I do not consider that there is any significant substance in the argument put by the Harbour Commissioners' consulting engineer relating to the risk of inundation from overtopping. The effect of inundation on any topside works are not a matter for consideration in relation to the listed building applications. I consider that any risk to the structural integrity of the listed structures could be contained by a properly constructed and monitored drainage system within the fill material as proposed [5.54].

Claimed socio-economic benefits

7.73 As I have already indicated, consideration of any balancing socio-economic benefits which might offset any identified harm done to the special interest and setting of the listed buildings in this case is rendered difficult on account of the approach adopted by the applicants [4.69]. I should stress that the relevant socio-economic benefits would be those arising out of the specific configuration of the works proposed, particularly those relating to the proposed extensions.

7.74 In doing so I have noted the argument of counsel for the applicants that a detailed justification of each part of the works is not required under paragraph 3.4 of PPG15 and that to seek such a detailed justification would be too narrow and mechanistic an approach, for which there is no justification in statute or policy advice. I agree that each part of the works has to be considered in the context of the development as a whole. In my view however a two-stage process of assessment is invariably necessary in cases such as this.

7.75 It is appropriate in the first instance to evaluate the weight to be placed on the overall social and economic benefits of the marina proposals. That is an exercise which lies outside my remit. However, before it may be concluded that such benefits outweigh any harm done to the listed buildings, a further exercise is required, applying an appropriate degree of rigour to an evaluation of the works as configured, taking into account their impact and justification. It is in relation to this further exercise that I, as the assessor in this case, am required to advise.

7.76 The TWO application is not for '*a marina*' at Bridlington, it is for the marina laid out and described in relevant plans and descriptions submitted with the application. These include major features that individually and cumulatively impact on the special architectural and historic interest of the listed structures and their setting. To confine examination of the applicants' justification to general aspects would be to avoid testing whether such features are an essential part of the whole and fail to address the issue of whether some should be omitted or substantially modified if they are not justified. In my view the absence of the kind of option analysis that one could reasonably expect in association with such major proposals as these makes it all the more necessary that such testing should be rigorous.

7.77 If the listed building applications are to be considered strictly within the definition of the works as set out in the applications and revised at the inquiry it is necessary to identify the purpose and justification of those works. In the case of the South Pier the relevant works as amended amount to infrastructure provisions specifically for the fishing industry, the RNLi and 40 domestic dwellings.

7.78 In my view the applicants have failed to demonstrate any significant socio-economic benefits arising out of these specific provisions and such evidence as has been produced falls well short of the justification required to outweigh the harm done by the configuration of the works to the special character and setting of the South Pier and the setting of both listed buildings. In identifying Option 2 the applicants undermine any case that the widening of the South Pier to the extent indicated might have an economic justification which outweighs any harm done to the character of the listed structure.

7.79 The responses from the local representatives of the fishing industry on the whole demonstrate that the facilities to be accommodated on the fish quay already exist and are considered quite satisfactory [6.50-6.51]. The few written submissions to the contrary overlook the seriousness of the current decline in fish stocks in the North Sea and the under use of facilities elsewhere on the north east coast. Alternatives are available for mooring the lifeboat, the existing arrangements for launching are unaffected by the marina proposals and in any event the proposed location is not without its drawbacks [6.48].

7.80 I accept that in the case of the North Pier engineering evidence submitted on behalf of the applicants demonstrates how the design of the Eastern Breakwater evolved through a consideration of options and is an appropriate and necessary feature of the proposals as a whole, without which the marina would be vulnerable to the action of the sea [5.31]. The same can not however be said of the extensions to the South Pier, which appear neither to have evolved through a process of option analysis or to be necessary for the delivery of the overall socio-economic objectives of the scheme.

Alternative proposals

7.81 I have already concluded that the applicants too lightly dismissed the possibility of adopting proposals that would retain the slipway in use, surround the South Pier with water up to its root on its south side and at least mitigate the adverse effect of the proposals as a whole on the setting of the listed structures. They dismissed sensible proposals put forward by an objector at the inquiry known as the 'Vincent marina' without adequate consideration [5.59]. In my view their rejection of the option of a marina within the existing harbour, which they conceded was feasible, was based on a superficial and rigid assessment.

7.82 It was superficial in that it did not adequately consider available measures to extend access periods on either side of high water. It was rigid in that it rejected out of hand possible solutions to shore side development which, if implemented with flair and imagination might well transform the urban scene on the north and west side of the harbour [5.63-5.66] and achieve many of the socio-economic benefits sought without harm to the setting of the listed buildings.

7.83 One of the thrusts of PPG15 is that imagination and the deployment of specialist expertise is required in relation to the preservation of listed buildings. There is no reason in my view to suppose that a marina proposal that is acceptable in terms of its impact on the listed piers at Bridlington could not be produced. It is therefore to be regretted that alternatives were not fully explored in this case.

7.84 A successful application for a marina development in Bridlington would depend crucially on a thorough reappraisal of the approach taken by the applicants, including a proper assessment of the special interest of the listed buildings and their setting. For that reason I do not consider that recommendation of any fundamental amendment of the current applications would be in the public interest.

Balancing of criteria and summary

7.85 I conclude from the evidence submitted that the proposals put forward in respect of the South Pier would cause significant harm to the special character of this listed building and the setting of both listed buildings. In my view, evidence produced of social or economic benefits arising out of the works proposed is unconvincing and insufficient to outweigh the harm that would be done. I do not consider that the proposals would achieve any environmental benefits to offset the harm done. I therefore conclude that this application should be refused.

7.86 I have already concluded that the works to the North Pier would not materially affect its special architectural and historic interest. I have however concluded that the extension to the North Pier would contribute significantly to the harm done to the setting of both listed buildings because of its scale and relationship to the other works.

7.87 In terms of setting it is not in my view possible or appropriate to consider these two applications separately, as they relate to an integrated scheme of works and were put forward as such by the applicants. I have already concluded that the applicants have failed to demonstrate that alternative options which would avoid harm to the setting have been adequately considered and rejected, including options which would not involve an extension to the North Pier in the form or to the scale proposed. In view of the harm caused to the setting of both listed buildings by the adopted scheme I conclude that the application in respect of the North Pier should also be rejected.

8. Recommendations

Listed Building Application North Pier alterations and extension

8.1 I recommend that listed building application reference 01/01237/PLB dated 6 March 2001 be refused.

Listed Building Application South Pier alterations and extensions

8.2 I recommend that listed building application reference 01/01230/PLB dated 6 March 2001 be refused.

Conditions in the event of approval

8.3 Notwithstanding my own recommendations, in the event of a recommendation by the Inspector to approve both the TWO and the listed building applications I confirm that the conditions set out in Document APP/248 are acceptable. In that event I recommend that consent be granted in accordance with the drawings documents and alternative recommendations set out in the Appendix to this report.

Assessor

Appendix: additional recommendations in the event of approval

1. North pier

For the avoidance of doubt I confirm that this application is to be read with the delineation of the listed structure of the North Pier indicated on document APP/226.

HOOCH/C4/003/Revision B

HOOCH/C4/006

E588/014

2. South Pier (Option3(b) Alterations and Extensions with reduced area of fish quay (Works No.2), central area (the widened portion of the South Pier forming part of Works No. 5), and western area incorporating the ramped access road, retention of the upper part of the slipway and a lowered development site.

For the avoidance of doubt I confirm that this application is to be determined on the basis that the listed structure of the South Pier includes the triangular platform and slipway at its root including the lower part of the landward retaining wall to the slipway and its seaward apron.

HOOCH/C4/005/ Revision A

HOOCH/C4/003/ Revision E

MOO19/SK/102

E588/020 Revision B

E588/021 Revision B

E588/023

E588/024 Revision A

3. I recommend also in that event that a new condition be added to the effect that details of works to form any pedestrian access from any part of the listed structure (including the slipway) to any part of the works on the south side of the South Pier be agreed in writing before the commencement of any works. The reason for this condition is to safeguard the special interest of the South Pier and to clarify that the submitted sketch APP/249 is not approved.

4. I advise that in the event of a recommendation for approval of the Transport and Works Order and the deemed outline planning application a recommended condition be incorporated that no buildings be erected on any extension of the South Pier other than on the proposed fish quay in accordance with the layout shown on Drawing E588/023. The reason for this condition would be to safeguard the setting of the two listed buildings.

5. I also advise that, in the event of a recommendation to approve the Order, deemed outline planning application and the listed building applications, consideration should be given to requiring that any further applications for listed building consent in respect of these two listed buildings be called in under the provisions of Section 12 of the Act.