
Appeal Decision

Site visit made on 13 September 2016

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 October 2016

Appeal Ref: APP/Q9495/C/16/3146639 and 3146640

The Coach House, Blackwell, Newby Bridge Road, Windermere LA23 3JT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the 1990 Act).
 - The appeals are made by Ms Anne Clarke and Ms Eilidh McNeil against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 4 February 2016.
 - The breach of planning control as alleged in the notice is the material change of use of studio above garage to use as a dwellinghouse.
 - The requirements of the notice are permanently cease the use of the studio above the garage as a dwellinghouse otherwise than in accordance with planning permission reference 7/2014/5494.
 - The period for compliance with the requirements is four months.
 - The appeal by Ms Anne Clarke is proceeding on the grounds set out in section 174(2)(a) of the 1990 Act and both appeals are proceeding on the grounds set out in section 174(2)(g) of the 1990 Act.
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Decision

1. The ground (a) appeal succeeds, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the change of use of studio above garage to use as a dwellinghouse at The Coach House, Blackwell, Newby Bridge Road, Windermere, subject to the following conditions:

1. The dwellinghouse hereby permitted shall not be occupied otherwise than by a person with a local connection as his or her only or principal home, or by the widow or widower of such a person, and any dependants of such a person living with him or her. The occupant will supply to the local planning authority (within 14 days of the local planning authority's written request so to do) such information as the local planning authority may reasonably require in order to determine whether this condition is being observed.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no material external alterations or extensions shall be carried out to the dwellinghouse, nor shall any building, enclosure, structure, domestic fuel oil container, pool or hardstanding be constructed within the curtilage of the dwellinghouse, without the prior written permission of the local planning authority.

Reasons

The ground (a) appeal

2. The main issues are; first, the effect of the dwellinghouse on the amenities of the residents of The Coach House; and second, whether the dwellinghouse is in a sustainable location.

The first issue – residential amenity

3. The Coach House is a large semi-detached dwellinghouse with a south elevation overlooking a substantial private garden area and a west elevation to a driveway that leads to the appeal building. The ground floor of the building is garaging and storage for The Coach House and the first floor, mainly within the roofspace and accessed by a staircase at the north end of the building, is a studio dwellinghouse comprising a large kitchen/living/sleeping space and a bathroom. The studio dwellinghouse is the subject of enforcement notice.

4. There are no principal windows in The Coach House overlooking the driveway and the resident of the studio dwellinghouse can 'come and go' from the property without disturbing the residents of the principal dwelling and probably without the knowledge of those residents whilst they are within their dwelling. The only clear glazed window in the studio dwellinghouse is a window in the south gable wall of building. But from this window there are views only of the west periphery of the rear garden area of The Coach House and overlooking of this garden area would not result in any significant loss of privacy in the garden area. Activity within the studio dwellinghouse would not cause any disturbance.

5. Taking all the aforementioned factors into account occupation of the first floor studio dwellinghouse does not cause any significant loss of amenity for the residents of The Coach House. The development, in this regard, is the appropriate re-use of an existing building and does not therefore conflict with policy CS02 of the Lake District National Park Core Strategy (CS).

The second issue – sustainable location

6. The Authority has not submitted an appeal statement and other documentation they have submitted provides very little information on this issue. The Appellant has submitted a delegated report for a planning permission granted for a dwelling created by the re-use of building on a site to the south of The Coach House and further away from the Rural Service Centre of Windermere/Bowness than the appeal building. In the report it is stated that "There are public bus services available at Storrs Hall Hotel less than a mile from the site and it would be possible to cycle to and from services in Bowness". Though not specifically stated in the report it is safe to assume that the Authority considered the site for that permitted dwelling to be in a sustainable location. Consequently, given that the appeal building is closer to the nearby Rural Service Centre than the permitted dwelling to the south, it can be concluded that the building is in a sustainable location and that there is, in this regard, no conflict with CS policy CS11.

Conditions

7. The Authority has suggested two conditions both of which have been imposed. Condition one limits occupation of the dwellinghouse to a person with a local connection to comply with adopted local planning policy and condition two

withholds permitted development rights to prevent development being carried out without the prior permission of the Authority.

8. With regard to condition one the Local Planning Authority should be consulted for the definition of 'person with a local connection', 'locality' and 'only or principal home'. These definitions have been omitted from the condition as suggested by the Authority in the interests of clarity and brevity.

Other matters

9. The use of the first floor of the appeal building as a dwellinghouse, which does not include any external alterations to the building, is materially different to the developments that have been proposed in previous planning applications. The Appellant is entitled therefore to pursue a ground (a) appeal.

Conclusion

10. The use of the first floor of the appeal building as a dwellinghouse does not cause any significant harm to the amenities of residents of The Coach House and the building is in a sustainable location. Planning permission has thus been granted for the change of use of studio above garage to use as a dwellinghouse at The Coach House, Blackwell, Newby Bridge Road, Windermere, subject to conditions. The ground (g) appeals do not therefore need to be considered.

John Braithwaite

Inspector