The Planning Inspectorate

# 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: 1 November 2016**

**Appeal Ref: APP/Q9495/C/16/3147748 and 3147749**
**High Hurst, Ulpha, Broughton-in-Furness LA20 6DZ**

- 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 appeals are made by Mr and Mrs Andrew Mackay against an enforcement notice issued by Lake District National Park Authority.
- The enforcement notice was issued on 14 March 2016.
- The breach of planning control as alleged in the notice is change of use of a dwellinghouse into two dwellinghouses.
- The requirements of the notice are permanently cease to use the land as two dwellinghouses.
- The period for compliance with the requirements is four months.
- The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

## Decision

1. The appeal is allowed, 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 a dwellinghouse into two dwellinghouses at High Hurst, Ulpha, Broughton-in-Furness, subject to the following condition:

> 1. The dwelling hereby permitted shall only be occupied for the purposes of short-term holiday accommodation, and shall not be occupied by any one individual, family or group for a period exceeding eight weeks in any three month period. The owner/occupier shall maintain an up-to-date register of the name of all occupiers of the residential accommodation and their home address, and shall make the register available to the local planning authority within 14 days of receipt of a written request.

## Procedural matter

2. The Council has stated that the required fee for consideration of a ground (a) appeal was paid by Mrs Mackay (appeal ref. no. 3147749). This appeal shall be determined and as no fee was paid by Mr Mackay (appeal ref. no. 3147748) his appeal cannot be determined.

## Reasons

3. High Hurst is a residential property and a registered agricultural holding of about 7 hectares. The dwelling on the property has been subdivided, at ground floor level, to create a one-bedroom dwelling that is occupied for short term holiday letting purposes. The remainder of the building remains a two-storey dwelling. The main issue in the ground (a) appeal is whether the holiday letting

dwelling accords with local planning policy that seeks to maintain the principles of sustainable development.

4. High Hurst is within Ulpha, a dispersed settlement of about 80 dwellings in the valley of the River Duddon. It is not, as suggested in the enforcement notice, in a remote upland location but close to other properties in the settlement, which stretches out alongside the river and the road that meanders along the valley. The nearest rural service centre, as designated in the Lake District National Park Core Strategy (CS), is Broughton-in-Furness, which is about five miles away.

5. CS policy CS02 states that development in the open countryside will only be supported where it demonstrates either, amongst other things, an essential need for a rural location or it is an appropriate re-use of an existing building. CS policy CS11 seeks to avoid adverse effects on the special qualities of the National Park and CS policy CS14 seeks to reduce the need to travel within and through the National Park and to promote the use of sustainable travel choices.

6. The Authority has given 'significant weight' to a previous appeal decision at High Hurst for the 'change of use of (two) ancillary residential buildings to two holiday units'. This is a relatively recent appeal decision but the evidence that was considered in that case has not been provided in this so it is not clear what led to the Inspector's decision. In any event, it is a well-established planning principle that a development proposal must be considered on its individual merits.

7. Many people who rent holiday accommodation in the Lake District National Park do so to be able to enjoy the scenic beauty of the area by walking the footpaths that criss-cross the fells. Access to this network of footpaths is almost on the doorstep of High Hurst; a footpath leads to the south-east to the Dunnerdale Fells and to the north-west to the road along the valley and beyond to Birker Fell. From both Fells there are footpaths in all directions and from Dunnerdale Fell a footpath leads towards The Old Man of Coniston, which is only a few kilometres from High Hurst and is a well-known walking destination.

8. Walkers staying in a rural service centre such as Broughton-in-Furness will probably drive to gain access to the walking routes that criss-cross the high fells of the National Park but if staying at High Hurst they will have direct access without the need to drive. Furthermore, High Hurst is not remote from facilities, Ulpha Post Office and General Store and Newfield Inn are within walking distance, so residents of the dwelling are not be reliant on using their motor vehicle for the purchase of provisions and for access to a public house/restaurant. These rural businesses rely on tourists, including those staying in nearby holiday accommodation, for financial stability.

9. The sub-division of the building to create the dwelling has not involved any external alterations and, given that no harm has been caused to the character or special qualities of the National Park, must be regarded to be, if acceptable in other regards, the appropriate re-use of an existing building. In this regard, given the location of the dwelling relative to an extensive network of footpaths and for those likely to be attracted to book its accommodation the dwelling reduces the need to travel within and through the National Park. The dwelling, given the imposition of a condition restricting its use to short term holiday accommodation, does not conflict with CS policies CS02, CS11 and CS14.

10. The holiday letting dwelling accords with local planning policy that seeks to maintain the principles of sustainable development and planning permission has

thus been granted, subject to a condition, for the change of use of a dwellinghouse into two dwellinghouses at High Hurst, Ulpha, Broughton-in-Furness.

*John Braithwaite*

Inspector