
Appeal Decision

Site visit made on 7 December 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/M0933/W/16/3156430

High Carley, Oldfield, Docker, Kendal LA8 9BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Kemp against the decision of South Lakeland District Council.
 - The application Ref: SL/2016/0467, dated 16 May 2016, was refused by notice dated 22 July 2016
 - The development proposed is a shed for a small holding.
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Decision

1. The appeal is allowed and planning permission is granted for a shed for a small holding at High Carley, Oldfield, Docker, Kendal LA8 9BJ in accordance with the terms of the application, Ref: SL/2016/0467, dated 16 May 2016 and the location plan and elevation drawing received by South Lakeland District Council on 16 May 2016, subject to the following conditions:
 - 1) No storage of any description shall be permitted on open land within the application site.
 - 2) The building shall be used solely in connection with the running of the smallholding and for no other purpose. In the event that the use of the land as a smallholding ceases, within one month of the cessation of the use, the operator shall notify the local planning authority in writing and submit for their written approval a scheme for the removal of the building, the reinstatement of the land and a timetable for the completion of the works. Thereafter the building shall be removed and the land reinstated in accordance with the approved scheme of works and timetable.

Procedural matter

2. The development has already been carried out and I was able to see the building when I visited the site.

Main Issue

3. The main issue in this appeal is the effect of the development on the character and appearance of the landscape.
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Reasons

4. When read together Policy CS8.2 of the South Lakeland Core Strategy 2010 (Core Strategy) and Saved policy S23 of the South Lakeland Local Plan and Alterations – Final Composite Plan 2007 (Local Plan) seek to ensure that new development in the countryside protects, conserves and, where possible, enhances the special qualities and local distinctiveness of the area; and that proposed agricultural buildings do not have a significant adverse effect on the character and appearance of the landscape as a result of their design and siting. These policies do not contain an explicit requirement to demonstrate that new a building is essential in relation with an agricultural operation or that the need for the building must be demonstrated. Saved Policy S23 states that, in considering proposals, full regard will be taken of the operational needs of agricultural businesses.
5. This latter point is based on older planning guidance contained in PPG7¹ that was subsequently replaced by PPS7², which in turn has been replaced by the National Planning Policy Framework (the Framework). The guidance in the Framework has a different emphasis, with Paragraph 28 requiring that planning policies take a positive approach to sustainable new development and promote the development and diversification of agricultural and other land based rural businesses. Paragraph 109 of the Framework requires that valued landscapes be protected and enhanced. Taken as a whole Policy S23 is, however, still relatively consistent with the guidance in the Framework and, as such, significant weight can still be given to it.
6. The appeal building has not been designed specifically for agricultural purposes and has the appearance of a large domestic shed, with brown stained timber walls and a mineral felt roof. I saw on my site visit that it is used for the storage of items which are clearly used in connection with the management of the land and the sheep grazing on it, although there were also some domestic items stored within it. Approximately one third of the floor area has been partitioned off with a timber and wire barrier. The precise use of this area is unclear as it contained nothing except a roll of wire mesh fencing. At the time of my site visit there were four sheep present in the field which contains the building and field was clearly being used for grazing purposes.
7. The appeal building is set within a rolling landscape, crossed by a number of wooded watercourses and is sited on a slope rising up from a river valley. The surrounding landscape is made up of irregularly shaped small to medium sized fields with post and wire, hedgerow or dry stone wall boundaries. Within the landscape are small areas of woodland and isolated trees. A number of farm buildings and houses are scattered throughout the area. To the south west of the appeal site, on slightly higher ground, is a small group of buildings in residential use. The area surrounding the appeal site is not subject to any special landscape designation.
8. The building is visible in the distance from the Dales Way footpath to the north west of the appeal site and from a small number of groups of farm buildings. However, due to the distances involved and the nature and scale of the landscape, with intervening groups of trees there are limited opportunities to see the building. When it is visible, it is seen against the backdrop of the

¹ Planning Policy Guidance 7: Countryside

² PPS7: Sustainable Development in Rural Areas

larger residential buildings to the south west. Due to the small scale of the building, and the muted colours of the walls and roof, it does not stand out as a prominent feature in the landscape and the eye is drawn more to the light coloured house which stands behind it. In these more distant views the domestic appearance of the building is significantly less apparent.

9. From the evidence before me, and from what I saw on my site visit, the effect of the building on the character and appearance of the surrounding landscape is very minor. Saved Policy S23 requires that proposals for new agricultural buildings should have not have a significant adverse impact on the landscape.
10. Whilst all new buildings in the countryside will have an effect on its appearance, due to the small size of the building, the materials used in its construction, the limited and distant views which are available from public locations and the context within which the building is seen, the effect it has on the character and appearance of the landscape is not significantly adverse.
11. Although I have noted the point raised that the building can be seen from fields and other areas to which the public do not have access, in order for there to be a visual impact, it is necessary for there to be receptors. Consequently, I do not find this line of argument to be a persuasive one.
12. It is also suggested that the building is disproportionately large compared to the size of the appellants' landholding. When I visited the site, I saw that the building does not dominate the field within which it is located, and whilst the land surrounding it may be in a different ownership, this does not translate into a visual difference. As I have set out above, the building is not a prominent feature within the context of the wider landscape of the area.
13. I therefore conclude that the building does not cause harm to the character and appearance of the landscape. It complies with the relevant requirements of Core Strategy Policy CS8.2 and Saved Local Plan Policy S23 which seek to ensure that new buildings in the countryside do not have a significant adverse effect on the character and appearance of the landscape and preserve its special qualities and local distinctiveness.

Other matters

14. It is suggested that there is not a need for a building and that there is not an agricultural use on the site. The policies in the development plan do not contain a requirement to demonstrate that there is a need for the building. There is some limited evidence that the smallholding use exists, although this post-dates the erection of the building, and the Council have not questioned the agricultural use of the site. The Framework is supportive of the development of agricultural and other land based rural businesses, and whilst the smallholding may only be recently established, it is not unreasonable for the operator of the smallholding to require a building for the storage of necessary items. Although the building is not a purpose designed agricultural building, the appellants do not suggest that it is to be used for the permanent housing of animals.
15. Concerns have also been raised that the building would set a precedent for other development in the area and that it may be used for other purposes such as kennelling of dogs or domestic purposes. No examples have been given of other locations where permission for similar buildings might be sought. I have

found that the appeal proposal does not cause harm to the landscape, nonetheless, any future applications on other sites would need to be considered on their individual merits. A generalised concern of this nature is not, of itself sufficient to warrant refusal of planning permission. Most other uses of the building and associated land would require planning permission in their own right and a condition could be imposed that required the building to be removed if it were no longer required in connection with the smallholding use.

16. Although the building is located close to the boundary of an unrelated property, no substantive evidence has been put to me that it causes harm to the living conditions of the occupiers of the that property and I note that the Council have not raised any concerns in this respect.

Conditions

17. I have had regard to the list of conditions suggested by the Council and the comments made by the appellants on these. Due to the countryside location and the proximity of the appeal site to residential properties it is necessary to attach conditions requiring that there is no external storage at the site and that the building be removed from the land in the event that the use of the land as a smallholding is discontinued. I have amended the wording suggested by the Council and by the appellants in order to make it clear what steps are required in the event of the use of the land ceasing.

Conclusion

18. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR