
Appeal Decision

Site visit made on 5 January 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 30 January 2017

Appeal Ref: APP/M9496/W/16/3160070

Lyndale House, Church Street, Bradwell, Derbyshire S33 9HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Paul Mosely against the decision of Peak District National Park.
- The application Ref NP/DDD/0216/0112, dated 10 February 2016, was refused by notice dated 11 April 2016.
- The application sought planning permission for the conversion of annexe to Lyndale House to holiday let without complying with condition 3 attached to planning permission Ref NP/DDD/0311/0178.
- The condition in dispute is No 3 which states that: *This permission relates solely to the use of the premises hereby approved for short-let holiday residential use ancillary to Lyndale House. The property shall not be occupied by any one person for a period exceeding 28 days in any calendar year. The existing house and the approved holiday accommodation shall be maintained as a single planning unit. The owner shall maintain a register of occupants for each calendar year which shall be made available for inspector by the National Park Authority on request.*
- The reason given for the condition is: *Permission has been granted solely for holiday use as the converted property has inadequate outdoor living space and is so closely related to Lyndale House that permanent separate occupation would cause unacceptable harm to their amenity.*

Decision

1. The appeal is dismissed.

Procedural Matter

2. Revised plans were submitted as part of NP/DDD/0216/0112 and there is a dispute between parties in respect of whether the work shown on these revised drawings has been agreed informally. In refusing the application, the Council's Decision Notice makes reference to a lack of justification of the works and development to the Listed Building that are different to the original scheme. I am also aware of further correspondence between parties following this decision on this matter.
 3. However, this appeal relates to disputed condition 03 of approval reference NP/DDD/0311/0178 which imposes an ancillary holiday occupancy restriction. Approved plans were conditioned separately under condition 02 and it is clear from the application form and appeal forms that this condition
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did not form part of the planning application now subject to the current appeal.

4. For the avoidance of doubt, I have dealt with the appeal based upon the original approved 2011 application focussing only on disputed condition 03 and the Council's concerns relating to living conditions and in respect of the conservation and enhancement of the curtilage listed building as an unrestricted dwelling. Accordingly, the Council's third reason for refusal falls away. Any on-going and future negotiations between parties in respect of amendments to the original plans would be unaffected by my determination of this appeal.

Main Issues

5. The main issues are whether the condition restricting the use of the accommodation to a holiday let is reasonable or necessary having regard to (a) the effect upon living conditions of future occupants and occupants of Lyndale House in respect of outlook, privacy, and noise and disturbance and (b) local and national policy concerning the provision of unrestricted dwellings within the Peak District National Park.

Reasons

Living Conditions

6. Lyndale House is a Grade II listed 2-storey 2-bay dwelling which dates from the early 19th century. It also falls within the Bradwell Conservation Area. There is an attached 2-storey outbuilding which extends out towards Church Street set at a diagonal angle to Lyndale House.
7. The dwelling is constructed out of the local gritstone with a slate roof. The attached outbuilding is constructed out of gritstone as well as limestone with the southern (side) elevation being rendered. There is an external stair and landing area leading to the first floor of the outbuilding, also on the south elevation.
8. Lyndale House and the attached outbuilding have a particularly close relationship due to the unusual juxtaposition of these buildings. The approved plans (ref L(0)21 A) provide for a kitchen/dining room at first floor level. The window serving this habitable room is in particularly close proximity with first floor windows of Lyndale House, which would give rise to significant levels of overlooking between both properties.
9. Although the first floor bedroom of the approved layout of the converted outbuilding would be located further away, again due to the configuration of both buildings, again I also consider that there would be overlooking from this habitable room.
10. The appellant contends that behaviours of holiday-makers would be more intrusive than that of permanent future residents and that the turn-over of different visitors is a pertinent factor. While I accept that a loss of privacy would arise from the approved occupation of the outbuilding as a holiday let, by its very nature, a holiday let is less likely to be occupied on a permanent basis. Behaviours would be different, but instead I consider that, in reality, short-term occupants visiting the area would be likely use and occupy the accommodation differently – for example I consider that visitors would spend

less time in the accommodation, instead they would usually be out and about exploring the local area and its attractions.

11. I appreciate that it may not be the intention of the appellant to sell the converted outbuilding and as such they would retain a degree of control over any future occupants. However, no formal undertaking has been submitted which limits the weight I can attach to this claim.
12. In any case, and in light of my findings above, it is clear that the occupancy of the accommodation would be entirely separate to the occupants of Lyndale House. Even if such private vetting and controls over occupation were in place, it is my view that the permanent occupation of the outbuildings by a separate household would give rise to a loss of privacy over and above any such overlooking experienced as part of the approved use.
13. Furthermore, the dwelling would have no outdoor living space as the front area to Lyndale House would be used for parking for both properties. While the approved accommodation is modest with only a single bedroom, I consider this to be wholly inadequate for permanent day to day living. The shared use of the parking area would also further increase the loss of privacy for residents of each independent unit due to the layout of this in proximity to ground floor windows, as well as giving rise to noise and disturbance due the comings and goings of permanent residents of the outbuilding.
14. Moreover, while the external stair and landing area may be denoted as an emergency exit only, in reality, and given the lack of outdoor space, I consider that in practice this may be used as amenity space which would further give rise to overlooking into Lyndale House.
15. I note the submitted photographs of other buildings within the village which have little or no garden space. However, I do not have full details of the developments or the circumstances that led to these proposals being accepted. In any case, I have determined the appeal on its own merits.
16. I conclude that the development would fail to accord with Policy GSP3 of the Peak District National Park Core Strategy 2011 (CS) or Policy H5 the Bradwell Neighbourhood Plan 2015 (NP). These adopted policies seek to pay particular attention to the impact on living conditions of communities and requires that garden and amenity space to be of appropriate quality having regard to (among other things) privacy.

Housing Policy

17. Within the National Park there is a policy presumption against the provision of new homes in order to reflect the purposes of the statutory designation of the National Park. Specifically, CS Policy HC1 supports new housing, including the reuse of buildings, only in certain limited circumstances. These include for affordable housing for local people (criterion A), and where it is required in order to achieve the conservation and/or the enhancement of a listed building (criterion C).
18. The appellant proposes that the dwelling would be offered for affordable rent on the open market. The need for affordable housing in the area is reflected by the NP and the housing needs survey which underpins this document. In respect of the type of affordable housing, the development of a single low cost

market home would not meet the definition of affordable housing as set out in the National Planning Policy Framework (the Framework), the CS or the NP.

19. Furthermore, there is no evidence before me to demonstrate that the removal of condition 03 would result in a dwelling that would be affordable with occupation restricted to local people in perpetuity as no appropriate means to secure affordable housing has been submitted as part of the application or appeal. The Procedural Guide – Planning appeals – England 2016¹ clearly states that an executed and certified copy of an obligation should be received no later than 7 weeks from the appeal start date and I am not obliged to delay my decision to wait for a completed obligation.
20. The appellant has also sought to justify the removal of condition 03 in respect of Policy HC1 (C). The building is in need of repair, however it is understood that the conversion works are underway under the terms of the original consent, albeit at a slow pace. There is also no evidence in respect of the viability claims for the repairs of a holiday let in comparison to a permanent dwelling. Removing condition 03 would not therefore offer any conservation and/or enhancement benefits over and above the existing permission.
21. Similarly, I accept that heating of the property would be necessary throughout the winter months in order to prevent damp and any associated rot or woodworm. However ensuring that this were undertaken in light of any intermittent use as a holiday let would be for the appellant to bear and there is no evidence to suggest that this would not be viable or that this could not be achieved as part of a general maintenance regime of the holiday let. Accordingly, this in itself would not represent a realistic conservation benefit to justify the provision of a new home under Policy HC1(C).
22. On this basis, the removal of condition 03 would not result in the provision of an affordable unit for local people nor would it be required in order to achieve the conservation or enhancement of a listed building. Accordingly the proposal would therefore be contrary to CS Policy HC1. This would also be contrary to Paragraph 50 of the Framework which also indicates that where the need for affordable housing is identified it should be provided.

Conclusion

23. For the reasons given above, taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Searson
INSPECTOR

¹ Procedural Guide – Planning appeals – England 2016 : Deadline for receipt of planning obligations – section N.2