
Appeal Decision

Site visit made on 8 February 2017

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/Q9495/C/16/3156189

Land at 7 Park Road, Windermere, Cumbria LA23 2AW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Christine Wright against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 7 July 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, material change of use of outbuilding to use a self-catering holiday accommodation.
 - The requirements of the notice are to permanently cease the use of the outbuilding as self-catering holiday accommodation.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (c) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Reasons

The appeal on ground (b)

1. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters have not occurred. The essence of the appellant's case is that the outbuilding has been converted into an additional house bedroom with ensuite which is occasionally let through Airbnb. The appellant goes on to explain that there are no catering facilities in the outbuilding, and that occupants of the bedroom have to interact with the occupants of the house to make bookings and collect keys.
 2. On the appellant's own description of the use of the outbuilding, the use is clearly not an additional bedroom to the main house. It is not usual for members of the same household to make bookings and collect keys to access part of their own place of residence. Moreover, the appellant's statement indicates that occupants of the bedroom have to interact with the occupants of the house to make bookings and collect keys is a clear indication that former are not related to the latter, and/or do not form part of the same household. On that basis alone, I am not persuaded that the outbuilding is used as part of the main house.
 3. Furthermore, as part of its evidence, the Lake District National Park Authority (Authority) has provided an extract from the Airbnb website that shows the listing for the appeal property as of October 2016. The listing makes repeated reference to "guests" and refers to a process of checking in and checking out.
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There is a fee per night quoted. The listing confirms that no breakfast is provided, and that the 'outhouse' is separate from the main house and has its own entrance. The listing also describes in detail the facilities available in Windermere, as well as local attractions and public transport services. It is evident that this listing is intended to attract paying guests, and there are a series of seven separate testimonials at the end of the listing from guests that have stayed in the accommodation. To my mind, this listing indicates that the use of the outbuilding is that as self-catering holiday accommodation.

4. Having regard to the above, I am satisfied that the matters alleged in the notice have occurred as a matter of fact. Accordingly, the appeal on ground (b) fails.

The appeal on ground (c)

5. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matter stated in the notice, those matters do not constitute a breach of planning control. The appellant's case on this ground of appeal is that the outbuilding has been converted into an additional accommodation for the main house as the only option available to the appellant, given that the main house is not capable of being extended.
6. I have found in relation to the appeal on ground (b) that the matters alleged in the notice have occurred as a matter of fact. The outbuilding is separate from the main house, has its own entrance and can be accessed without going into the main house. This use of the outbuilding as a self-catering holiday accommodation represents a separate and different use, and one which is not ordinarily ancillary or incidental to the use of a dwellinghouse. The appellant's main argument on this ground, namely that the outbuilding has been converted to provide additional accommodation that is ancillary to the main house and as such does not require planning permission, therefore cannot succeed. I must, however, also consider whether the change of use that has occurred is of such a scale that it constitutes a material change of use for the purposes of Section 55 of the Town and Country Planning Act 1990.
7. In this context, it is evident from the Airbnb website that the use of the outbuilding as self-catering holiday accommodation amounts to more than the 'occasional' letting suggested by the appellant. This is evidenced by the number of testimonials on the Airbnb website. I am also mindful that the Airbnb website does not indicate any periods during the year when bookings are not taken and, although a minimum stay of one night is accepted, there is no limitation on the maximum length of stay. Indeed, I note that one of the testimonials on the website refers to a four-night stay. To my mind, the above indicates that the use of the outbuilding as self-catering holiday accommodation is more than a *de minimis* use.
8. For all these reasons, I consider that the use of the outbuilding as self-catering holiday accommodation amounts to a material change of use and therefore constitutes development for the purposes of Section 55 of the Town and Country Planning Act 1990, for which planning permission is required but has not been granted. Consequently, the matters alleged in the notice do constitute a breach of planning control.
9. Accordingly, the appeal on ground (c) fails.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Formal Decision

11. The appeal is dismissed, and the enforcement notice is upheld.

Paul Freer

INSPECTOR