
Appeal Decision

Hearing Held on 12 June 2018

Site visit made on 12 June 2018

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2018

Appeal Ref: APP/C2708/C/17/3180912

Willow Tree, Austwick, Lancaster, LA2 8AH

- 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 Mr David Shackleton against an enforcement notice issued by Craven District Council.
- The enforcement notice was issued on 21 June 2017.
- The breach of planning control as alleged in the notice is without planning permission: the construction of a new building, namely a dwellinghouse, in the open countryside on the land.
- The requirement of the notice is to demolish the unauthorised building.
- The period for compliance with the requirement is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) & (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Application for costs

1. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary matters

2. It is a material consideration in this case that, on 22 December 2017, the Council granted planning permission in respect of the appeal premises for "Conversion of a partially rebuilt shippon to form a three bedroom unit of holiday accommodation" (Ref: 2017/18173/FUL). The Council conceded at the hearing that the development which is the subject of the enforcement notice should similarly be treated as a conversion and, from my inspection of the appeal site, I concur with this view. Accordingly, I shall direct that the notice be corrected to reflect this.
3. Despite, the above concession, the Council indicated that the requirement of the notice to demolish the building remained valid.
4. At the hearing, the appellant withdrew grounds (b), (c) and (f) of his appeal.

The appeal on ground (a)

5. The Council accepted that there were no objections to the physical presence of the building, as now modified, including its design and any impact on the

Forest of Bowland AONB. Accordingly, the main issue is whether the use of the dwelling should be limited to holiday use, as required by condition no.5 of the December 2017 planning permission.

6. The Council acknowledged that the emerging development plan is at such an early stage as to attract very little weight. Accordingly, the saved policies of the Craven District (Outside the Yorkshire Dales National Park) Local Plan [LP] are the relevant development plan policies. Policy ENV1 generally seeks to protect the character and quality of the open countryside, allowing small-scale development where appropriate. Policy H8 allows the conversion of traditional rural buildings for residential use, subject to a number of criteria. It was accepted that the criterion requiring an attempt to secure suitable business reuse was not compliant with the National Planning Policy Framework (NPPF) and should now attract little weight. The only criterion with which the Council initially said the development fell foul was that the building is shown to be structurally sound and capable of the proposed re-use without major rebuilding.
7. The appeal property is located in open countryside. It is a stone built former shippon, forming part of a compact group of buildings, along with the appellant's detached house and a large, stone built barn. There is no longer any agricultural use. The barn is disused and the shippon has been used for storage and other incidental residential purposes.
8. The adjacent barn has the benefit of planning permission granted in August 2016 for conversion to form a dwelling (Ref: 49/2016/17020). I recognise that the fall back position of a 1980 planning permission for conversion to residential use, which remained extant, was given some weight in the determination of that application. Nonetheless, the officer report concluded that the proposal was not considered contrary to the requirements of saved policies ENV1 and H8 or to the objectives of the NPPF.
9. The Council conceded at the hearing that there was, in essence, no difference between the development approved for the barn and that carried out at the shippon. That is a position with which I agree. The majority of the shippon is structurally sound and has been retained. The extent of rebuilding is comparable to that permitted at the barn and has similarly occurred within the original footprint of the building.
10. The Council's reference to para.55 of the NPPF advising the avoidance of new isolated homes in the countryside is noted. However, one of the listed exceptions is the re-use of redundant or disused buildings, leading to an enhancement of the immediate setting, which I consider to be the case here.
11. Whilst the Council considered that the permitted use of the shippon as holiday accommodation would be of greater benefit to the local economy, it was unable to point to any policy guidance or other compelling reasons indicating that unrestricted residential use was unacceptable or unduly harmful. I recognise that the appeal site is remote from services and facilities; that equally applies to the approved holiday use. However, the fact that there would be 3 dwellings close together here would allow for some services eg refuse collection or postal services to be provided more efficiently.
12. To my mind, the development in question is consistent with Policies ENV1 and H8 of the LP and with the advice of para. 55 of the NPPF. It is also consistent

with the 2016 planning permission granted in relation to the adjacent barn. I have seen no policy or other convincing reason why the dwelling should be limited to holiday use.

13. For the reasons given above, I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Conditions

14. In the light of my conclusions above, the Council's suggested condition restricting the use to holiday accommodation is not necessary. As there are certain details of the development still to be completed, I agree that these should be closely controlled, given the site's location in the AONB.

Formal Decision

15. It is directed that the enforcement notice be corrected by substituting the following wording for the alleged breach: "*Without planning permission, the conversion of a partially rebuilt shippon to a dwellinghouse.*" Subject to this correction, 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 conversion of a partially rebuilt shippon to a dwellinghouse at Willow Tree, Austwick, Lancaster, LA2 8AH, referred to in the notice, subject to the following conditions:

1. No further development which is not in accord with drawing number Sha/704/2297/01 shall take place without the prior written approval of the Local Planning Authority;
2. Notwithstanding any details shown on the approved drawing, no further above ground works shall take place until details of all windows and doors for the development have been submitted to and approved in writing by the Local Planning Authority. Such details shall include their design, materials (including surrounds, sill and lintel treatments), finishes, colour treatment, reveals and opening profile. The windows and doors shall be installed in accordance with the duly approved details before the dwelling is first occupied and shall be retained as such thereafter;
3. No roofing materials shall be installed unless their details have first been submitted to, and approved in writing by, the Local Planning Authority.

B.S. Rogers

Inspector

Appearances

For the Appellant:

Mr A.Gill of Counsel

Mr G.Hoerty - Gary Hoerty Associates

Mr D.Shackleton - Appellant

For the Council:

Mr P.Riley-Smith of Counsel

Ms A.Muscroft - Craven DC

Mr A.Strickland - Craven DC

Documents

1. Attendance list
2. Letter of notification of the hearing
3. Photographs of the appeal site, submitted by the appellant
4. Details of planning application ref: 49/2016/17020