

## Appeal Decision

Site visit made on 18 September 2018

**by Katie McDonald MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 September 2018**

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**Appeal Ref: APP/Q9495/W/18/3202547**

**Barn at Broom Handle Cottage, Duddon Bridge LA18 5HU**

- 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 V Adams against the decision of Lake District National Park Authority.
  - The application Ref 7/2017/4080, dated 8 September 2017, was refused by notice dated 21 March 2018.
  - The development proposed is a barn conversion to create three-bed dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for a barn conversion to create three-bed dwelling at the Barn at Broom Handle Cottage, Duddon Bridge LA18 5HU in accordance with the terms of the application, 7/2017/4080, dated 8 September 2017, subject to the conditions set out in the attached Schedule.

### Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised in July 2018. Both main parties were provided with opportunity to comment upon these changes. As the Framework is a material consideration that should be taken into account from the day of its publication, I have taken account of it accordingly.
3. The Local Planning Authority (LPA) refer to no development plan policies within their reason for refusal, instead relying upon the Framework as a material consideration.

### Main Issue

4. This is the effect of the proposed access on the highway safety of users of the A595.

### Reasons

5. The site is a stone barn attached to Broom Handle Cottage. The proposal is to convert the barn to a 3 bedroom residential dwelling. Access would be provided from the existing access onto the A595, although the LPA claim that this was not previously formalised. Nonetheless, despite its un-formalised nature, it would be reasonable to assume that it is a long standing access point used by vehicles accessing the barn. The A595 is the main southern link between the east and west Lake District and it is a busy and frequently used road operating at the national speed limit in this location.

6. The plans indicate that sufficient turning space can be provided in order that a vehicle could turn within the site and exit in forward gear. The plans also indicate suitable visibility splays, and based on the advice from the LPA's Highway Authority and the observations on my visit, I have no reasons to disagree. The LPA's Highways Authority also has no objection to the overall proposal.
7. The access is on a bend, with another bend to the east. There are highway warning signs in both directions advising of a 'double bend' and that the 'road narrows on both sides', in addition to a plate stating 'oncoming vehicles in middle of road'. Additionally, 'SLOW' was painted on the roads on approach from both sides.
8. On my visit, I observed very frequent traffic, including heavy goods vehicles, tractors and other large vehicles. However, all vehicles slowed considerably when approaching the bend, having regard to the road signs, perhaps local knowledge or general driver awareness when faced with an oncoming corner. This is evidenced by the appellant's speed survey that shows speeds of 21mph and 24mph at the 85<sup>th</sup> percentile. Therefore, vehicles passing the access point were travelling slowly and users of the access would satisfactorily be able to see oncoming traffic when using the access.
9. Additionally, as there are no pavements and the road is narrow and busy; the likelihood of pedestrians being on the road would be slim. Yet, in any event, sightlines are satisfactory and pedestrians would inevitably be traveling slower than a vehicle, allowing sufficient opportunity to see any pedestrians when using the access.
10. Moreover, it is important to note that the proposal is for one dwelling and despite the assertion of the LPA, to my mind; this would not create a demonstrably significant number of additional movements onto the road, over and above those associated with the former use as a barn. Indeed the appellant advises that increased traffic for a single dwelling would typically add 1 vehicle per hour to the local highway network during the 2 busiest hours, and would probably generate less than 5 vehicular trips over the whole day.
11. Furthermore, contrary to the LPA's claims, I did not find that the highway was in a poor situation. Warning signs were in force and vehicles responded to this by reducing speeds. I have little substantive evidence to corroborate the LPA's claims that traffic slows erratically, and can result in an uncertainty to road users due to limited visibility. Also, localised congestion would only result in slower speeds and I have little evidence of unexpected manoeuvring. Indeed, I have been presented with undisputed evidence from the appellant that shows there have been no recorded accidents in the last 5 years.
12. Therefore, having considered all matters raised, the effect of the proposed access on the highway safety of users of the A595 would be acceptable. I find no conflict with the Framework, which seeks to ensure that safe and suitable access to the site can be achieved for all users.

### **Conditions**

13. The approved plans are listed for certainty. Although I acknowledge the appellant's suggested amendment to the roofing material condition, I do not find this to be precise. Therefore the roof material is required to be submitted

to the LPA to ensure the visual effect of the conversion is acceptable. This condition is required to be pre-commencement as it is imperative to have these details agreed before the development commences.

14. The vehicular access and parking arrangements are required to be constructed and brought into use before any other works to ensure an appropriate standard of access and turning provision is available in the interest of highway safety.
15. Specifications to the colour of the external joinery are presented by the appellant in line with the Design and Access Statement, and I have imposed a condition referring to those colours.
16. Having regard to Policy CS16 of the Lake District National Park Core Strategy (October 2010) (CS) requires new housing developments to have at least 10% of their energy supply secured from decentralised and renewable or low carbon energy sources. A wood burning stove is proposed to the living area which would include a back boiler to provide heating and hot water. This would be a low carbon energy source and therefore, it would be necessary to meet the requirements of Policy CS16, and I have required this to be implemented.
17. Drainage details to prevent surface water discharging onto the highway would be necessary to reduce potential hazards associated with additional water on the highway. Additionally, the first 5m of the access should be hard surfaced with bound material to prevent the spread of loose material onto the highway.
18. A local occupancy restriction is required in order to comply with Policy CS18 of the CS. The policy sets out that the LPA will permit new dwellings where they contribute towards meeting an identified local need; and where they help to redress the imbalances in the local housing market and are secured in perpetuity for the purpose it was originally intended through the use of appropriate planning controls. Policy CS18 precludes new market dwellings, and thus the condition is necessary and reasonable to meet an identified local need.
19. The LPA suggest that permitted development rights are removed. Having regard to the guidance in the Framework and the Planning Practice Guidance, and also the restrictions imposed by the site being within the National Park, I see no exceptional reason why this condition would pass the test of necessity and I have not imposed it.
20. I also see no reason why the development would be unacceptable without the timber shutter to the ground floor window and although its retention may be preferable, it would not meet the test of necessity and I have not imposed this condition. A condition for matching stone walling was also suggested, but this would be unnecessary given the requirements of condition 2.

## **Conclusion**

21. For the reasons above, I conclude that the appeal should be allowed.

*Katie McDonald*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried in conformity with the submitted plans, details and documents and the recommendations and / or mitigation measures contained therein:
  - Drawing Nos 07 Revision G and 08 Revision B.
  - Bat survey by South Lakes Ecology (report no. 0917/8)
  - Flood risk assessment for planning by Unda Consulting Ltd. (report ref. 86534-Adams-DuddonCottBrn)
  - Construction Method Statement by Architects Plus (report ref.16003)
- 3) Prior to commencement of the development hereby permitted, a sample of roof slate shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the building has been roofed with the approved sample of the roofing slate. Only materials of those types and colours shall be used and they shall be laid in diminishing courses from eaves to ridge.
- 4) Prior to the commencement of any other works of development on the site, the vehicular access, and parking arrangements shall be constructed in accordance with the approved details. The access and parking provision shall be retained and capable of use at all times thereafter.
- 5) Prior to the occupation of the development hereby permitted, the wood burning stove and back boiler shall be fully installed, operational and thereafter maintained.
- 6) Prior to the occupation of the development hereby permitted, the first five metres of the access drive, measured from the carriageway edge, shall be hard surfaced with a bound material and the drainage channel shall be installed in accordance with the details shown drawing No 08 Revision B.
- 7) The colour or colours of all doors, windows and associated framework of all external joinery shall be painted with Farrow & Ball 'Hardwick White' or 'French Gray'. Such painting shall be carried out not later than three months from the substantial completion of the works hereby granted consent.
- 8) The dwelling hereby permitted shall not be occupied otherwise than by a Person with a Local Connection as his or her Only or Principal Home, or the widow or widower of such a person, and any dependents of such a person living with him or her.

The Occupant will supply to the Local Planning Authority (within 14 days of the Local Planning Authority's written request so to do) such information as the Authority may reasonably require in order to determine whether this condition is being observed.

In this condition the following definitions apply:  
'Person with a Local Connection' means an individual who before taking up occupation of the dwelling satisfies one of the following conditions:

- (1) The person has been in continuous employment in the Locality defined for at least the last 9 months and for a minimum of 16 hours per week immediately prior to occupation; or
- (2) The person needs to live in the Locality defined because they need substantial care from a relative who lives in the Locality defined, or because they need to provide substantial care to a relative who lives in the Locality defined. Substantial care means that identified as required by a medical doctor or relevant statutory support agency; or
- (3) The person has been continuously resident in the locality defined for three years immediately prior to: a) Needing another dwelling resulting from changes to their household, including circumstances such as getting married, divorced, having children, or downsizing. b) Undertaking full-time post-secondary education or skills training and is returning to the locality defined within 12 months of its completion, or c) being admitted to hospital, residential care or sentenced to prison, and are returning to the locality defined within 12 months of their discharge/release, or
- (4) The person is a person who – a) Is serving in the regular forces or who has served in the regular forces within five years prior to occupation; b) Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where - i. The spouse or civil partner has served in the regular forces; and ii. Their death was attributable (wholly or partly) to that service; or c) Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service.

'Locality' shall mean the administrative areas of the Parishes of Bootle; Ulpha; Waberthwaite; Whicham; Millom Without; Blawith & Subberthwaite; Broughton West; Coniston; Dunnerdale with Seathwaite; Lowick; Torver; and Kirkby Ireleth.

An 'Only or Principal Home' is a dwelling which is occupied continuously for a minimum period of six months in every twelve month period. For the avoidance of doubt the dwelling shall not be occupied as a second home or for holiday letting accommodation.

The obligations contained in this condition shall not be binding or enforceable against any mortgagee or any receiver appointed by such a mortgagee, or any person deriving title through such a mortgagee or receiver provided always that a successor in title of such a person will be bound by the obligations contained in this condition.

**\*\*\*End of Conditions\*\*\***