

Appeal Decision

Site visit made on 13 September 2016

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 1 November 2016

Appeal Ref: APP/Q9495/X/16/3144797

1 Police House, Rydal Road, Ambleside LA22 9AY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Andrew Green against the decision of Lake District National Park Authority.
 - The application Ref 7/2015/5515, dated 26 August 2015, was refused by notice dated 19 October 2015.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended (the Act).
 - The use for which a certificate of lawful use or development is sought is change of use from offices Class B1 to dwelling.
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal property is a two-storey mid-terraced building with a front and rear garden. The same property was the subject of an enforcement notice (Ref. No. E 2015/0107) issued by the Authority on 9 July 2015. The notice alleges the 'change of use of former police station to use as a dwellinghouse for holiday letting purposes' and the requirement of the notice is 'permanently cease the use as a dwellinghouse otherwise than in accordance with planning permission reference 7/2014/5145'. The notice took effect on 7 August 2015.
3. An enforcement notice, once it has come into effect, remains in force without time limit. The application, dated 26 August 2015, was submitted when the enforcement notice was in effect and in force. The application seeks an LDC for a dwelling and the requirement of the notice is the cessation of the use of the property as a dwellinghouse. A dwellinghouse is a dwelling and vice versa. Section 191(2)(b) of the Town and Country Planning Act 1990 states that "...uses and operations are lawful at any time if they do not constitute a contravention of any of the requirements of any enforcement notice then in force". The consequence of Section 191(2)(b) is that an LDC cannot be granted for a use that contravenes the requirements of an enforcement notice in force at the date of submission of the LDC application. This is the situation in this appeal.
4. For the reason given in the previous paragraph the appeal does not succeed.

John Braithwaite

Inspector
