The Planning Inspectorate

Appeal Decision

Site visit made on 23 July 2019

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2019

Appeal Ref: APP/Q9495/W/19/3228587
Low House, Cleabarrow, Windermere LA23 3NA

- 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 R Collinge against the decision of the Lake District National Park Authority.
- The application Ref 7/2018/5064, dated 23 January 2018, was refused by notice dated 5 April 2019.
- The development proposed is replacement of an existing garage structure with single storey holiday accommodation.

Decision

1. The appeal is allowed, and planning permission is granted for the replacement of an existing garage structure with single storey holiday accommodation at Low House, Cleabarrow, Windermere LA23 3NA, in accordance with the terms of application Ref: 7/2018/5064, dated 23 January 2018 and subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue in this appeal is whether the proposed holiday accommodation would be an appropriate form of development in this location, having regard to local and national policies.

Reasons

3. The appeal site sits to the south of an unnamed road that runs between the B5284 and Lickbarrow Road. The site currently comprises an area of garden land, a detached timber garage, parking and various other ancillary outbuildings associated with Low House which sits on the north side of the road. The main parties agree that the site is located within the open countryside for the purposes of applying planning policy.

4. The proposal is to replace the existing garage structure with a single storey unit of holiday accommodation. The appellant advises that the new accommodation would support the existing holiday letting business at Low House by providing further accommodation and thereby supporting sustainable tourism.

5. The National Planning Policy Framework (The Framework) paragraph 83 advises that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through

conversion of existing buildings and well-designed new buildings. In conformity with this, Policies CS02, CS11 and CS24 of the Lake District National Park Core Strategy (CS) collectively seek to achieve sustainable development including tourism.

6. Policy CS02 seeks to achieve vibrant and sustainable settlements and supports development in countryside locations exceptionally and providing the proposal demonstrates an essential need for a rural location, or it will help to sustain an existing business, including farm diversification schemes, or it provides for a proven and essential housing need, or an appropriate reuse, redevelopment or extension of an existing building. In this regard, I agree with the Authority's assessment that the proposal would help to sustain the appellant's letting business. The proposal is therefore in compliance with the requirements of Policy CS02 as defined above.

7. Policies CS11, CS14 and CS24 seek to ensure that all proposals apply the principles of sustainable development with particular regard to reducing reliance on the motor car by locating development in the most accessible locations.

8. The appeal site sits approximately 1km to the east of Windemere where there are a range of facilities and services available. It is within close proximity to the rural road network which offers opportunity for visitors to access the main settlements. I have not been provided with any information regarding the availability of frequency of bus services however, the appellant has provided an extract from the definitive map which clearly shows a network of footpaths in close proximity to the site. During my site visit I noted several groups and individuals walking and cycling on the roads close to the site. Consequently, whilst I do not doubt that some visitors would use the car, I am satisfied that there are alternative modes of transport. In this respect, the proposals accord with the requirements of Policies CS11, CS14 and CS24.

9. Notwithstanding the above, I acknowledge that the Authority's main concern with regards to the proposal is linked to the fact that the proposal would be tantamount to a new dwelling within the open countryside. In *Gravesham BC v SSE and O'Brien [1983] JPL 307* it was accepted that the distinctive characteristic of a dwelling house was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. It did not lose that characteristic if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. Consequently, holiday cottages that meet the Gravesham test may be treated as a dwelling house for the purposes of applying planning policies and not as a commercial leisure use, even if its occupation is restricted by condition. I am satisfied that whilst the proposal would be, for the purposes of applying planning policy a dwelling house, the use of the building could be controlled by an appropriate planning condition.

10. I therefore conclude that the proposal would be an appropriate form of development in this location and therefore would not conflict with the requirements of Policies CS02, CS11, CS14 and CS24 of the CS and paragraph 83 of the Framework.

Conditions

11. Where necessary I have amended the wording of the Council's suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance (PPG). The Council suggested a condition removing permitted development rights from the property. The PPG states that this should only be done in exceptional circumstances. I do not consider that there is exceptional justification for the removal of permitted development rights. Similarly, I do not consider that a condition requiring 10% of the energy supply be secured from a decentralised and renewable or low carbon energy source is justifiable acknowledging the six tests contained within the PPG.

12. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. In the interests of highway safety, it is necessary to impose a planning condition relating to the implementation of the proposed additional car parking and widened driveway. In the interests of character and appearance it is necessary to require details of proposed materials and landscaping treatments. A condition regarding the use of the building for holiday accommodation is necessary as the building is not suitable for permanent residential use.

Other Matters

13. I have considered the Authority's argument that the proposals represent a situation that could readily be repeated throughout the National Park thus resulting in cumulative harm. However, each case must be determined upon its own merits and as set out above, the proposals before me represent the redevelopment of an existing building which will support tourism, in a location that is accessible to a good range of services and facilities. Accordingly, I do not see how a development which is acceptable would set a precedent for unacceptable development in the future.

14. I acknowledge the third party representation made at application stage. In relation to the car parking, access and design matters raised the Authority has assessed these elements and raised no objection and I have no reason to disagree with their findings. The use of the proposed dwelling will be restricted to holiday accommodation via a condition, whether it is to be let in association with the main house is not relevant to the determination of this appeal. With regards to the creation of jobs, it is likely that there will be a small economic benefit commensurate with the scale of the proposals however, this is not a determining factor acknowledging the findings as set out above.

Conclusion

15. For the reasons outlined above, I conclude the appeal should be allowed.

Julie Hunter

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 out in accordance with the following approved plans: Drawing number 8999 – L01 (Location Plan); Drawing number 8999 – P03 (Garage Replacement Site Plan); Drawing number 8999 – P04 (Garage Replacement Plan and Elevations); Drawing number 8999 – P12 (Construction Constraints Plan).

3) The approved dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. 8999 – P03 Garage Replacement Site Plan, for five cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

4) Prior to their incorporation into the development details of the following shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter retained.

   i. Surface material for carparking and driveway

   ii. Timber cladding and shingles

   iii. Hedge planting specification.

5) The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence or by any persons exceeding a period of eight weeks in any three month period. An up to date register shall be kept at the holiday accommodation hereby permitted and shall be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.