



Appeal Decision

Site visit made on 12 August 2019

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

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

Decision date: 29 August 2019

Appeal Ref: APP/C9499/C/18/3211288

Hilltop, Stalling Busk, Askrigg, Leyburn, North Yorkshire, DL8 3DH

- 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 Jill Elizabeth Mackenzie against an enforcement notice issued by Yorkshire Dales National Park Authority.
 - The enforcement notice was issued on 6 August 2018.
 - The breach of planning control as alleged in the notice is without planning permission, change of use of the land from use as a single dwelling house to use as two separate dwelling houses.
 - The requirements of the notice are: i). stop using the land as two separate dwelling houses; and ii). Stop using or permitting the use of the area hatched blue on the plan as a separate self contained unit of residential accommodation.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) & (g) of the Town and Country Planning Act 1990 as amended.
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Formal Decision

1. The appeal is allowed and the enforcement notice is quashed.

The appeal on ground (c)

2. Hilltop, is a traditional stone dwelling located within the small village of Stalling Busk, some 3 miles south of Bainbridge. It was originally two dwellings which were many years ago joined to form a single dwelling. This is evident in the internal layout, which retains two staircases, and externally where the originally separate rear gardens are evident.
3. The appellant and her partner bought the property in 2012. In 2014, they converted the garage to living accommodation and installed a second kitchen and bathroom to form what was intended to be ancillary accommodation for dependent family members. This is the part of the house hatched blue on the plan attached to the notice, which I shall refer to as 'the annexe'. Internal connecting doors were retained at both ground and first floor levels and the utility services continued to be shared throughout the property. The works did not require planning permission.
4. In the event, due to the death of an intended occupant, 'the annexe' was never used for its planned purpose. No further physical alterations were carried out to the property but, in order to generate some income, 'the annexe' has been advertised and let out from time to time for holiday use. At such times the connecting doors are locked. When not in such use, the appellant and her family use 'the annexe' as an integral part of the main house.

5. It is plain that 'the annexe', which effectively coincides with the northernmost of the two original dwellings, is capable of being occupied independently. It has all the normal facilities for cooking, eating and sleeping associated with use as a dwelling house. The southernmost of the original dwellings equally retains all such facilities to function as a dwelling house.
6. Whilst I appreciate that the two internal connecting doors and that which connects the two parts of the garden could, with relatively little effort, be permanently closed, that has not occurred as a matter of fact. The appellant indicates that the whole of the dwelling continues to be used for normal domestic purposes by her and her partner when it is not let out for holiday purposes. It is on regular occasions used to accommodate visiting family and friends. Indeed, it is stated that the dining room of 'the annexe' is often not let out, even when the remainder is, and continues to be used for family purposes.
7. As to the frequency of holiday letting use, the Authority has indicated that web site advertising shows considerable availability, although no details of such advertising have been provided. However, the appellant indicates letting has been at a relatively low level and, in any event, submits that availability is not the same as actual use – the actual use continues to be for family purposes when no letting takes place. Neither of the parties has supplied detailed evidence of the actual level of use for holiday purposes.
8. The Authority has drawn my attention to an appeal at Mystified Bungalow, Bishopdale (Ref: APP/C9499/C/17/3174241) which has some similarities with this case. There, a new annexe was added to a modern bungalow and was used, separately, for holiday purposes. The annexe was said to have been used as ancillary to the main residential use of the bungalow when not in holiday use. However, in that case, the intensity of use for holiday lettings was demonstrably far greater than for ancillary residential use, amounting to up to 90% holiday occupancy rate in May to November 2016. Moreover, the appellants indicated an intention to have a 10 month holiday letting period each year. That appears noticeably different from the present case.
9. From my site visit and the written representations, I consider Hillside, including 'the annexe' and its domestic curtilage, to function as a single planning unit. I am led on the balance of probability to regard the use to be primarily as a single dwelling with ancillary use for tourism. Therefore, there has not been a material change of use which would require planning permission. Accordingly, the appeal on ground (c) succeeds and I shall quash the enforcement notice.
10. My decision turns on the specific facts of the case as I now see it. Any future change of circumstances, such as physical alterations or a different pattern of use, could result in a material change of use requiring planning permission.

The appeal on grounds (a) and (g) and the deemed application.

11. Because of my conclusion on ground (c) and my decision to quash the notice, there is no need to go on to consider the above matters.

B.S. Rogers

Inspector