



Appeal Decision

Site visit made on 2 July 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/C9499/W/19/3226659

Low West End, Lunds, Garsdale Head, Hawes LA10 5PY

- 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 Christopher Kelly against the decision of Yorkshire Dales National Park Authority.
 - The application Ref R/48/13C, dated 9 February 2018, was refused by notice dated 29 October 2018.
 - The development proposed is re-occupation of two houses to form two dwellings for holiday occupation or continuous occupation.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019 after the Local Planning Authority (LPA) made its decision. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment upon the Framework as part of the appeal and I have therefore determined the appeal on that basis.

Background and Main Issue

3. The appeal is the result of the LPA refusing to grant planning permission for the formation of two dwellings with unrestricted occupancy within a traditional building in the Yorkshire Dales National Park (the National Park).
4. From the statements provided, it appears that the LPA has accepted the principle of converting the building to residential use, as it is within an existing building group and there would be conservation benefits arising from its retention and viable reuse. However, the LPA considers that the appeal proposal does not constitute the reoccupation of two houses and, therefore, is not an exception to the requirement of a local occupancy restriction as contained within policy L2 of the Yorkshire Dales National Park Local Plan 2015-2030 (the Local Plan) (2016).
5. It is evident from the appellant's statement they contend that, as the building is a former dwelling or dwellings, the appeal proposal does constitute the reoccupation of two houses and, therefore, is an exception to the requirement of a local occupancy restriction as contained within policy L2 of the Local Plan.

6. On the basis of the submitted evidence, I consider the main issue to be whether the proposed use of the appeal building as two dwellings should be subject to a local occupancy restriction secured by a section 106 legal agreement, having regard to policy L2 of the Local Plan.

Reasons

7. The appeal site is located in the open countryside in Lunds within the National Park which has the highest status of protection. Under the National Parks and Access to the Countryside Act 1949, the two purposes of National Parks are to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, and to promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public.
8. In accordance with paragraph 172 of the Framework, the conservation of the landscape and scenic beauty is a material consideration to which I attach great weight.
9. Policy L2, Conversion of traditional buildings – acceptable uses, within the Local Plan states that, with the exception of former dwellings, proposals for the change of use of traditional buildings to high intensity residential, visitor accommodation and employment uses will only be permitted within existing settlements and building groups, or other suitable roadside locations. It goes on to state that proposals for the change of use to a dwellinghouse for continuous occupation will be subject to a local occupancy restriction as set out in Appendix 5, and all proposals for the conversion of traditional buildings to a dwellinghouse for holiday occupation will be restricted to short stay letting only.
10. The supporting text to policy L2 expands on the exception afforded to former dwellings. It states that in the National Park there are many examples of houses where residential use has ceased or been abandoned. A number of these are listed buildings, or are otherwise worthy of conservation because of their archaeological, historic, architectural or landscape interest. Reoccupying these houses will sometimes represent the most beneficial and viable use of the building. Great care is however needed to ensure that the reuse retains the building's significance, to ensure that the policy objective is met. The policy on former dwellings represents an exception to the normal presumption against introducing intensive uses into isolated locations. A number of these buildings are remote from roads or even private tracks, but by virtue of the fact they were originally designed as dwellings and are often particularly worthy of conservation – including a number that appear on the Authority's 'Buildings at Risk' register – it is considered necessary to introduce an additional degree of flexibility. This represents a continuation of the strategy from the last Local Plan.
11. The appeal building is constructed of stone with a stone slate roof located within an open upland landscape. It is part of a historic and important farm holding within Lunds and part of the old Lunds hamlet. Buildings adjacent to the appeal site have received permission for their conversion to residential use, refs R/48/13A and R/48/13B.
12. It is agreed by both parties that there is physical evidence which indicates that part of the building was used as a dwelling prior to it being used for agricultural purposes. However, the number of dwellings and the date when this part of the

building ceased being used as a dwelling or dwellings and was used for agricultural purposes are disputed.

13. Detailed evidence submitted by the appellant in the form of a heritage statement indicates Low West End existed at least in 1771 with documentary evidence indicating that it predates 1871. In addition, it is contended that documentary and architectural evidence indicate that there could have been at least two dwellings at Low West End.
14. The LPA assert that the central cell of the building probably represents a single former thatched house dating from the 17th century, which is likely to have lost its domestic function in around the 18th century and has been in agricultural use ever since. The LPA state that there is no conclusive evidence that the building was constructed as more than one dwelling.
15. The proposed development would use existing openings and re-open blocked up openings. One new opening would be created in the east elevation by the amalgamation of two smaller square openings and a new conservation rooflight would be installed in the roof. It would include the internal subdivision of the building and the external subdivision of the existing enclosure.
16. From the evidence submitted and viewing the building on site, it is clear that it has had a long history and has been extended and altered a great deal over time. I agree with the parties that the building is of historic interest and that there would be conservation benefits arising from its retention and reuse. I also agree that part of the building displays evidence that it was once a dwelling.
17. Notwithstanding the above, it is apparent that, internally and externally it is physically and visually an agricultural building which has been in that use for a very long time and possesses limited surviving fabric of its former domestic use. I acknowledge that the policy and supporting text do not provide a time frame over when its use as a dwelling should apply, give a definition of the term 'dwelling' or make reference to the current appearance or character of a former dwelling. However, in the supporting text it does refer to 'houses where residential use has ceased or been abandoned.' I consider the building is not identifiably a house or houses and therefore the proposed scheme would not constitute a reoccupation as outlined in the supporting text of policy L2.
18. In addition, I consider that the proposed works to the building would cause harm to, rather than conserve, its historic interest and significance as a dwelling, as the proposed properties would not reflect the original form and layout of the building. Instead, it would retain the building's character and appearance as an agricultural building. This would not meet the policy objective as outlined in the supporting text of policy L2.
19. On the basis of the above, I consider that the proposed development does not constitute the reoccupation of two houses and would not be an exception to Policy L2. Therefore, I conclude that the proposed use of the appeal building as two dwellings should be subject to a local occupancy restriction secured by a section 106 legal agreement, having regard to policy L2 of the Local Plan. In the absence of a completed section 106 legal agreement, the proposal does not accord with policies L2 and C1 of the Local Plan (2016) which ensure the appropriate conversion of traditional buildings and the release of land in sustainable locations for a new range of homes that will support the social and economic well-being of local communities. It also conflicts with Paragraph 77 of

the Framework which states that planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. It is also not in accordance with Paragraphs 76-79 of the National Parks circular (2010) which support the delivery of affordable housing; and section 11A(1) of the National Parks and Access to the Countryside Act 1949.

Other Matters

20. The appellant refers to the LPA's under-delivery of housing and that it cannot demonstrate a five year supply of deliverable housing sites. As such relevant development policies cannot be considered up to date and the application should be considered against paragraphs 79 b) and c) and 54-56 of the Framework. The lack of five year housing land supply is disputed by the LPA. Irrespective of this, even if I were to agree with the appellant, with reference to paragraph 11(d)i and footnote 6 of the Framework, the application of policies within the Framework that protect assets of particular importance such as National Parks provide a clear reason for refusing the development proposed.
21. I acknowledge that the development would score highly in terms of the sustainability objectives of the Framework in economic, social and environmental terms. However, the principle of the use of the building for residential occupation is not in dispute. As such this is of limited weight.
22. I note the appellant states that the LPA issued a draft decision notice without the need for a section 106 legal agreement. However, the principle of the use of the building for residential occupation is not in dispute. Given that this was a draft, I attach limited weight to it.

Conclusion

23. The appeal proposal would involve the conservation and reuse of a building of historic interest which carries moderate weight in favour of the proposal. However, it would conflict with the Local Plan in that it does not constitute the reoccupation of two houses and, therefore, is not an exception to the requirement of a local occupancy restriction secured by a section 106 legal agreement. There are no other material considerations which would provide an overriding reason to disregard the development plan. Therefore, for the reasons above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR