



Appeal Decision

Site visit made on 27 August 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2019

Appeal Ref: APP/Q9495/W/19/3229541

10 Gatesyde Place, Eskdale, Holmrook, Cumbria CA19 1UD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Saffron Price-Walter against the decision of Lake District National Park Authority.
 - The application Ref 7/2018/4109, dated 17 October 2018, was refused by notice dated 20 December 2018.
 - The application sought planning permission for residential development without complying with a condition attached to planning permission Ref 7/00/4034, dated 13 February 2001.
 - The condition in dispute is No 2 which states that:
The occupation of each of the dwellinghouses hereby permitted shall be limited to the following descriptions of persons:
(a) A person employed, about to be employed, or last employed in the locality; or
(b) A person who has for the period of three years immediately preceding his occupation, had his only or principal residence in the locality.
In this condition 'locality' shall mean the area contained within a radius of twenty miles from the development which for the purposes of this condition shall be drawn from the south eastern corner of St Bega's Churchyard and the expression 'person' shall include the dependants of a person residing with him or her or the widow or widower of such a person.
 - The reason given for the condition is:
The approval of a dwelling with no occupancy limitation would be contrary to the policies contained in the Cumbria and Lake District Joint Structure Plan and Lake District National Park Local Plan.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission¹ for the residential development of nine houses was granted in February 2001 which included a local occupancy condition. The National Park indicate that the condition is required to meet identified local housing need, redress identified housing market imbalance and ensure the vibrancy of communities. The appellant seeks to remove this condition in relation to the appeal property.

¹ Local Planning Authority Reference: 7/00/4034

3. Therefore, the main issue is whether the condition imposed is reasonable and necessary having regard to local housing needs.

Reasons

4. The appeal site is a semi-detached dwelling located within a cul-de-sac of predominately residential properties known as Gatesyde Place in Eskdale.
5. Policy CS18 of the Lake District National Park Core Strategy October 2010 (CS) states that new dwellings will be permitted where they contribute towards meeting an identified local need or local affordable need with priority given to the deliverance of affordable homes which help to redress the imbalances in the local housing market and are secured in perpetuity. The Lake District National Park Housing Provision Supplementary Planning Document (SPD) indicates further how Policy CS18 of the CS is used in planning decisions relating to housing provision.
6. It appears that the use of local occupancy conditions has been a long standing approach by the National Park due to the level of pressure on the existing housing stock and also the requirement to foster the economic and social well-being of communities. The National Park states that the pressure on existing housing stock is due in part to the continuing trends of people moving from urban to rural areas for a better lifestyle, and of those buying second homes or homes to be used for holiday letting purposes.
7. The appellant does not live in the area and it has been indicated that the appeal property has been on the housing market and empty for a number of years. There are also a number of other properties in the area which are currently on the market. I note comments from a local estate agent in Reference 11 of the appellants final statement of case, and that the asking price has been reduced to entice buyers but it has been indicated that there have been no serious viewings from potential buyers. The property has been extended over the years converting it from a three-bedroom house into a five-bedroom property. The appellant contends that the property is not classed as an affordable home, as defined by the National Planning Policy Framework, and is located in the west of the National Park and therefore does not meet a local need. The Eskdale Parish Housing Needs Survey 2009 also suggests the need for affordable housing is low in the area with the need being for rented accommodation.
8. Whilst the appeal property may not be classed as an affordable home, there is no compelling or recent evidence before me to suggest that there is an oversupply of five-bedroom properties within the area. To ensure that an area has a balanced housing mix, a range of different house types and sizes are required. The five-bedroom appeal property would meet a local need which contributes to a balanced housing market in this area.
9. The appellant has indicated that the restrictions within the condition is having a negative effect and shrinking the village. The appellant further states that the use of the appeal property as a holiday accommodation or as a second home would contribute to the local community. Holiday accommodation and second homes are unlikely to be occupied all year round. Person(s) living in a property as their primary home, particularly when these person(s) work in the local area, would have a significant contribution to the local economy compared against a property which is not occupied all year round. I acknowledge that the

appeal property is empty and the use of the property as holiday accommodation or a second home would contribute to the local community. This contribution however would be significantly less than if the property was occupied by person(s) living in the property as their primary home and also worked in the local area.

10. The appellant has provided information in relation to job salaries within the area and considers that the average salary would not be sufficient to purchase the appeal property. There is limited information submitted on the spectrum of job salaries in the area including higher paid jobs. Whilst job salary is a contributing component when considering the purchase of a property, this is not always the determining factor which could ultimately lead to a house purchase.
11. I have had regard to the appellants statement of cases including the appeal decision² detailed in Reference 16 however, I do not consider this to be directly comparable to the proposal subject of this appeal, particularly with regards to development plan policies. My attention has also been brought to the European Court of Justice Cases C-197/11 and C-203/11 as well as a case at Foxhill Farm in Penruddock. However, I do not have full details of these cases and so cannot be sure that they represent a direct parallel to the appeal proposal. In any case, I have determined the appeal on its own merits.
12. Whilst I note that the local occupancy condition does not apply to all developments within the National Park, the condition in this instance does limit occupancy to those with a local connection and therefore contributes to a well-balanced community and the sustainability of the local area. From the evidence provided, and taking all matters into consideration, I consider that the removal of the condition would have a harmful effect on the housing market mix in the area. Accordingly, I find that condition 2 is reasonable and necessary in the interests of the provision of local housing needs. The removal of condition 2 would be contrary to Policy CS18 of the CS, the SPD and the National Planning Policy Framework which seeks to provide a balance in the local housing market.
13. The appellant indicates that the appeal property has become a financial burden and there are personal circumstances as to why the property is no longer lived in. I note there has been dialogue between the appellant and Officers from the National Park which includes advice on varying the distance within the condition. The appellant has also indicated that the proposal would not have any effect on local schools. Whilst I sympathise with the appellants position, I do not consider these personal circumstances and other matters would outweigh the harm that would be caused to the local housing market should the condition be removed.
14. I note that the appellant has indicated that the proposal would be in accordance with Policies CS20 and CS22a of the CS. Although I have not been presented with copies of these policies, I still find that the proposal would be contrary to Policy CS18 and the proposal therefore unacceptable.
15. It has been indicated that the Lake District National Park is not a strategic housing authority and it is Copeland Borough Council which has the statutory housing responsibilities. My decision however, is on the appeal made against the refusal of planning permission by the Lake District National Park Authority

² Reference: APP/5941/A/82/00790

and the development plan policies of this Authority including relevant national planning policies.

Conclusion

16. I conclude that for the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

Chris Baxter

INSPECTOR