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## Appeal Decision

Site visit made on 10 December 2019

**by A A Phillips BA(Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 January 2020**

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**Appeal Ref: APP/Q9495/C/19/3221470**

**The Barn, Middle Bleanesley, Broughton in Furness LA20 6AR**

- 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 Mr David Coxon against an enforcement notice issued by Lake District National Park Authority.
- The enforcement notice was issued on 18 December 2018.
- The breach of planning control as alleged in the notice is:
- On 11 March 2002 planning permission was conditionally granted to convert the barn to a dwelling and install a septic tank. Condition 9 on planning permission reference 7/2002/5016 concerns occupancy and states that:

*"The occupancy of the dwellinghouse 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 administrative County of Cumbria 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.*

*REASON: To comply with Policy C4 of the Lake District National Park Local Plan."*

It appears to the Authority that the condition is not being complied with, because the dwelling, known as the Barn, is being advertised and let for self-catering holiday accommodation.

- The requirements of the notice are:
  - 1) Permanently cease to occupy the dwelling otherwise than in accordance with planning permission reference 7/2002/5016.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice upheld.**

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### The appeal on ground (a)

1. The ground of appeal is that planning permission should be granted. The main issue is whether the principal of using the property for holiday letting accommodation is acceptable. In this case that turns on whether it is no longer suitable to meet a local housing need or whether there are any material considerations which would justify a departure from policy.
2. The appeal site is situated at the side of an unclassified road approximately two kilometres from Broughton in Furness. It is situated on the western side of the Lickle Valley and is a substantial stone and slate structure which I understand to have been converted to a single dwelling around 2004 and 2005. The

property is situated in Middle Bleasley which consists of two residential properties which are accessed from an unclassified road off the main highway which connects Broughton in Furness to Broughton Mills.

3. Under planning permission reference 7/2002/5016 planning permission was granted to convert the barn to a dwelling. The permission was subject to conditions, condition 9 of which relates to the occupancy of the dwelling, restricting it to local occupancy only in order to comply with the development plan. The enforcement notice alleges that the property is being advertised and let for self-catering holiday accommodation which results in the loss of local housing which is contrary to Policies CS18 and CS22a of the Lake District National Park Core Strategy Adopted October 2010 (the CS). The Notice also states that there is no evidence that the dwelling is no longer suitable for local housing needs purposes nor are there any material considerations which justify a departure from policy.
4. The appellant has noted that at the time the original planning permission was granted the Planning Officer's Report does not specifically identify any issues which may have precluded alternative uses of the property within the wider scope of Policy C4 (Conversion in the Open Countryside) of the Lake District National Park Local Plan 1998, which is now superseded. Whilst that may be the case, there can be no reasonable argument that condition 9 was not imposed to meet the particular requirements of Policy C4 with respect to restricting occupancy. The appellant contends that the condition was a result of the applicant's intention to occupy the property as a dwelling and for no other reason. However, in my opinion that is only speculation and there is insufficient evidence before me that the condition was attached for any reason other than to restrict occupancy in order to comply with the provisions of the development plan. Therefore, it is clear to me that at that time the Authority considered that the conversion of the barn to a dwelling in this location was suitable to meet a local housing need.
5. Consequently, it must follow that in the context of the Lake District National Park the site is not in an isolated location. Indeed, it is approximately two kilometres from the rural service centre of Broughton in Furness and is within walking distance of the scattered hamlet of Broughton Mills. Broughton in Furness benefits from a wide range of local service including a primary school, fire station, doctor's surgery, library and community hall, petrol station and garage, grocery store and off-licence, public houses, a post office, places of worship, café and other shops. Broughton Mills benefits from a public house, village hall and a church. Therefore, in this context the property is not isolated and the appellant has presented insufficient evidence for me to conclude that it is in an isolated location where paragraph 79 of the National Planning Policy Framework (the Framework), which expresses the Government's presumption against isolated homes in the countryside, would apply. I would highlight here that the site is situated in the open countryside, but that does not necessarily define it as being isolated. Therefore, given the range of services and facilities nearby (some within walking distance) it would be unreasonable to argue that it is in an inherently unsustainable location.
6. Policy CS02 of the CS relates to achieving vibrant and sustainable settlements and states that development should be of a scale and nature appropriate to the character and function of a location and contributes to meeting local community needs, benefiting the local community or delivering sustainable

tourism. With particular reference to the open countryside development will be only be supported in specific circumstances. The use of the property as a dwelling, as required by the enforcement notice, would constitute a re-use. Therefore, re-use of the building for a purpose bringing benefits to the local community by contributing towards supporting local services and facilities is acceptable, in principle. The Framework is also supportive of housing in such rural areas where it would help to maintain the vitality of rural communities. Therefore, in the light of the development plan and national guidance the use of the building for local needs housing purposes would be appropriate. The local occupancy of the property would support local services and facilities which are fundamental to achieving successful, vibrant and sustainable local rural communities.

7. The Barn is a large detached residential property which provides a high standard of accommodation, yet it is argued by the appellant that it is not suitable for occupancy by those meeting the occupancy restriction imposed by condition 9 of planning permission 7/2002/5016. The appellant has stated that that he came to own the property following its repossession by the previous owner's mortgage lender. I understand that it was sold to the appellant after a prolonged period of marketing. However, I have no evidence of the marketing that took place, nor evidence to support the contention that the property is in an undesirable location for people meeting the occupancy restriction. Therefore, I find that the appellant's comments regarding unsuitability for residential occupation to be rather general assumptions that are not supported by sufficient evidence for me to find them supportive of the case he makes.
8. Under Policy CS22 the appellant argues that the property is not suitable for alternative uses other than home based employment purposes, but even that would provide limited employment benefits and would be less beneficial than short-term letting of the property for holiday purposes. However, that argument can only be advanced in the case where a property is not suitable for residential use. In this case, the property is suitable for local occupancy and therefore the arguments made regarding alternative uses carry little weight.
9. Furthermore, Policy CS22a relates to the reuse of buildings for holiday letting accommodation and specifically states that the re-use for holiday letting accommodation will be permitted in principle where it would not utilise a site that is suitable for meeting a local need. Given that I consider the property to be suitable to meet a local need, the reuse for holiday letting purposes is contrary to Policy CS22a.
10. Importantly, Policy CS18 of the CS states that new dwellings will be permitted where they contribute towards meeting an identified local need, among other objectives. This approach is confirmed by the Authority in the Housing Provision Supplementary Planning Document (the SPD) which identifies that a range of sources of evidence will be used to identify local housing need. The Strategic Housing Market Area Assessments (SHMAAs) for all Districts and Boroughs in Cumbria identify that there is a need for dwellings with four or more bedrooms. The appellant has not presented evidence that the Barn is not suitable to meet this identified housing need which is specifically identified in the SHMAAs. There is no clear evidence that the property in question has been marketed for either sale or letting and therefore this gives additional weight to the view that the appellant's comments regarding the unsuitability of the property to meet the identified need are unsupported.

11. Therefore, it is my view that the development plan and wider national guidance is supportive of rural housing where it meets a particular local need. There is such a clearly identified local need for housing need in the area and the Barn is suitable to meet such a need. Therefore, the relevant condition 9 on the original planning permission to convert the barn into a residential property remains relevant to achieve its original objective and to ensure that the property continues to fulfil its role in meeting an identified local housing need.
12. The appellant has suggested a varied condition to ensure it remains for short term holiday letting in order to prevent it being used as a second home and to secure the socio-economic benefits identified in his appeal statement. However, in the light of the above, the varied condition would fail to satisfy the requirements of the adopted development plan.
13. I therefore conclude that the principal of using the property for holiday letting accommodation is not acceptable as it would be contrary to Policies CS02, CS22, CS22a and CS18 of the CS, the SPD and the Framework.

### **The appeal on ground (g)**

14. The ground of appeal is that the time given to comply with the requirements is too short. The period of three months would be sufficient to cease the occupation of the property otherwise than in accordance with the original planning permission reference 7/2002/5016. The 12 month compliance period suggested by the appellant would be excessive having regard to the continuing ongoing harm caused by the use of the building and consequent effect on local housing supply.
15. It is my understanding that the appellant has not taken any holiday letting bookings beyond the week including 19 December 2019. Also, the appellant has been aware that the unauthorised occupation of the property for holiday letting purposes is unauthorised development for several months and the continued use is given weight in determining this appeal. Therefore, I see no sound reasons to extend the compliance period beyond the three months identified in the enforcement notice. Therefore, the appeal on ground (g) does not succeed.

### **Conclusion**

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

### **Formal decision**

17. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*A A Phillips*

INSPECTOR