



Appeal Decision

Site visit made on 23 June 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2020

Appeal Ref: APP/Q9495/C/20/3246700

Land at 4 Church Street, Ambleside LA22 0BU

- 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 Simon Ragg on behalf of Gladglider Ltd against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 14 January 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission material change of use consisting of the sub-division of one dwellinghouse to form two units of residential accommodation.
 - The requirements of the notice are: Permanently cease to use the Land as two units of residential accommodation.
 - The period for compliance with the requirements is four weeks after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (b) (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. 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.

Application for costs

2. An application for costs was made by Mr Simon Ragg on behalf of Gladglider Ltd against the Lake District National Park Authority. This application is the subject of a separate decision.

Appeal on ground (b)

3. The main issue is whether as a matter of fact the Land was in use as two units of residential accommodation. The burden of proof falls on the appellant to make out their case.
4. The appellant's case is that a sub-division has not occurred. No 4 Church Street remains in use as a single dwellinghouse and the holiday accommodation is ancillary to the main building and two separate units have not been formed. Although some of this argument might be more relevant to an appeal on ground (c), that the matters do not constitute a breach of

planning control, I have considered all of the evidence and made a determination on ground (b) as appealed.

5. There is no dispute that works have been undertaken to physically separate the accommodation formed within the rear outrigger from the main dwelling known as No 4 Church Street. I also appreciate that these buildings works have been undertaken with the benefit of planning permission and listed building consent. However, the permission/consent was for physical works, including general refurbishment and alterations, and did not grant permission to convert the dwelling to two separate units. The original connecting doorway has been blocked up, and from the evidence before me and my own observations on site, the accommodation in the rear outrigger is now completely self-contained. In addition, it is equipped with a fully fitted kitchen, including a cooker, microwave, fridge and sink which adjoin a sitting area with television and wood burning stove. There is also a separate double bedroom with ensuite facilities. The accommodation has been laid out to function as self-contained residential unit and has all the facilities required for day-to day private domestic existence.
6. It is also not disputed that the self-contained unit is in use as a holiday let. Despite taking its access through a shared yard, the accommodation that has been formed is physically separate and distinct from the host property. Moreover, its occupation as a holiday let is not functionally related to the use of No 4 as a single dwelling. The holiday let is not therefore ancillary in use to the main dwelling, as it is occupied for a different and unrelated purpose and is physically separate from it. I have had regard to the correspondence between the National Park Authority (NPA) and the appellant between 5 December 2019 and 3 January 2020. However, there is nothing in that correspondence that would lead me to conclude that the two units of residential accommodation are functionally related.
7. From the evidence before me, the Land was in use as two units of residential accommodation. A separate planning unit has been formed and a material change of use has occurred. The appeal on ground (b) therefore fails.

Appeal on ground (a), deemed planning permission

Main Issues

8. The main issues are the effect of the development on the living conditions of occupiers of neighbouring residential properties, and whether the development provides for acceptable living conditions for its existing and future occupiers.

Reasons

9. As set out in ground (b), the new unit of residential accommodation which has been formed is within a single storey outrigger to No 4. Pedestrian access to the unit, and to Nos. 3 and 4 Church Street is through a shared covered yard from Compston Street, and this yard also serves the adjacent joinery workshop. Commercial vehicles park in the yard and there is an external staircase leading from it which provides access to the workshop that overlooks the appeal site. There is no off-street parking provision for either No 4 or the new unit of accommodation.
10. The new unit has a total internal floor area of approximately 20m², which is significantly less than the required space standards for a one bed flat, as set

out in the National Park Authority's Housing Provision Supplementary Planning Document, amended Feb 2019 (SPD). Although, I noted on my visit that the accommodation was well lit and had a reasonable outlook, the space internally is extremely limited. There is no wardrobe or space to store clothes or other household goods, for example cleaning equipment or clothes airer. The only outside space is a small yard. Whilst this external space does provide some outside seating, it is shared with the occupiers of No 4 and it is not private. It is overlooked by accommodation within No 4 as well as the adjoining residential property and holiday cottage at No 3. In addition, it is close to the access to the joinery workshop, and at the time of my visit the workshop was operating with its doors open and operations were clearly audible.

11. There does not appear to be any dispute between the main parties that, due to the limited size and nature of the accommodation provided, the new unit is not suitable to meeting a local or affordable need and or for use as a long term, permanent residence. Nor is the building suitable for an employment use. The reuse of the building for holiday letting accommodation would therefore in principle be supported by Policy CS22a of the Lake District National Park Core Strategy, 2010. Considering my observations on my site visit, I would concur with that assessment. The appellant considers that the new unit is suitable for use as a holiday let and has suggested a condition that would restrict the occupancy of the unit to that use.
12. From the evidence before me and my own observations on my site visit, the space and facilities offered by the accommodation may be suitable for a single person or couple wishing to spend a night or two in Ambleside and visit the local area. However, given the constraints of the space and limited facilities the accommodation has to offer, I would not consider it suitable as a place of residence for a period of up to eight weeks, as suggested by the appellant. Moreover, the new unit has an extremely close relationship with No 4. Its entrance is close to No 4's back door and is overlooked by living accommodation at both Nos. 3 and 4. Furthermore, the occupiers of No 4 would be disturbed by any activity associated with the holiday let and vice versa. There is only a small external amenity space available for the occupiers of No 4 and the holiday let to share, which offers limited space for sitting, drying clothes or storage. This outdoor space is also overlooked.
13. In addition, the conversion of the outrigger into a separate unit of residential accommodation has compromised the standard of accommodation at No 4. In particular, it has significantly reduced the amount of storage space available to this small cottage and compromised the availability and privacy of their external amenity space. There are also increased opportunities for overlooking between living areas of both units of accommodation.
14. I have taken into consideration the condition suggested by the appellant and the intention to restrict the occupancy of the new unit to short-term holiday letting accommodation. However, for the reasons given above and taking account of the close relationship between the two residential units, I do not consider that a restriction on the use to holiday accommodation would overcome the harm I have identified to the living conditions of the occupiers of No 4. I appreciate that the appellant currently occupies No 4 and is happy with the arrangements. However, the deemed planning application is for two separate residential units. Taking into account advice in the National Planning Policy Framework (the Framework) and Planning Practice Guidance, it would

not be reasonable to impose a condition that would restrict the occupancy of No 4, as planning permission generally runs with the land rather than a specific occupier. Indeed, I note that the appellant has objected to the NPA suggested condition 2.

15. The appellant has advised that the neighbouring properties are in use as short term lets and therefore the occupiers of those properties are unlikely to raise objections on amenity grounds. That may well be the case. However, that consideration would not overcome the harm that I have identified to future occupiers of the development the subject of this appeal or to the occupiers of No 4.
16. I conclude that the development has a harmful effect on the living conditions of occupiers of neighbouring residential properties and does not provide for acceptable living conditions for its existing and future occupiers. There are no planning conditions that could make this development acceptable. In addition, the benefits that would be accrued to the local economy, including the tourist economy, from this small unit of accommodation would not outweigh the harm I have identified. The development is contrary to the development plan, and in particular to Policies CS10 and CS11 of the Lake District National Park Core Strategy, 2010 (CS) which seek to ensure, amongst other criteria, that new development is sustainably designed. There is also conflict with Policy CS18 of the CS and the accompanying SPD which seeks to ensure that new houses have sufficient space and amenity to support the needs of the person or persons which live there. I also find conflict with the Framework's aim of providing a high standard of amenity for existing and future users of land. I find no conflict with Policy CS02 of the CS which has been referred to by the NPA and sets out their settlement strategy.

Other Matters

17. I have had regard to the other decisions made by the NPA which relate to the approval of holiday accommodation and to an appeal decision¹ which has been brought to my attention by the appellant. However, from the information I have available to me it seems that in those instances the holiday accommodation did not have the same relationship with neighbouring properties or size constraints as is the case with the two units of accommodation in this appeal. Those cases are not therefore directly comparable to this appeal which I have determined on its own merits.
18. The appeal site is a grade II listed building and lies within Ambleside Conservation Area. I have had special regard to the desirability of preserving the listed building, its setting and any features of special architectural or historic interest which it possesses. I have also had regard to the requirement to preserve or enhance the character and appearance of Ambleside Conservation Area. The unauthorised breach of planning control in this case relates solely to the use of the building. Taking into account the original residential use of No 4 and its position within a part of Ambleside, which is characterised by a mix of residential and commercial development, I am satisfied that there has been no loss of significance to these heritage assets.

¹ APP/Q9495/C/18/3192982

Conclusion

19. For the reasons given above and taking into account all other matters raised, I conclude that the appeal on ground (a) must fail.

Appeal on ground (g)

20. The issue is whether the compliance period of four weeks is reasonable. The appellant considers that a period of six months would be more reasonable and would provide time to deal with any bookings that may have already been made.
21. I have not been provided with any substantive evidence that the appellant has any live bookings that would not be able to be honoured. Furthermore, it is clear from correspondence between the appellant and the NPA in Appendix G of the appellant's Statement of Case that it had been agreed that no more bookings would be taken from 3 December 2019 with the last booking confirmed ending on 16 February 2020. It was based on this agreement that the NPA considered a four week period for compliance to be reasonable. I therefore agree with the NPA that if the appellant has taken further bookings beyond that date then this was done at the appellant's own risk.
22. Considering the evidence above, a four week time period for compliance with the notice is reasonable and the appeal on ground (g) must fail.

Overall Conclusion

23. 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 application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR