



Appeal Decision

Site visit made on 14 October 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2020

Appeal Ref: APP/M0933/W/20/3247337

Levey View, Pennington, Ulverston LA12 7NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Ian Lancaster against the decision of South Lakeland District Council.
 - The application Ref SL/2019/0761, dated 12 September 2019, was refused by notice dated 29 November 2019.
 - The development proposed is the conversion of an existing barn building to form a single residential dwelling at Levey View, Pennington Lane, Pennington, Ulverston, Cumbria LA12 7NY.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed conversion of the existing barn to a residential dwelling is justified having regard to local and national policy; and
 - The effect of the proposed development upon the character and the appearance of the area.

Reasons

Background

3. The appeal site is a triangular area of land adjacent to Pennington Lane incorporating a barn, stables and field just outside the village of Pennington near Ulverston. The barn was granted planning permission in March 2012 and measures around 13 metres by 8 metres. It is harled and includes domestic-style windows.
4. The proposed development involves the conversion of the barn building to a 2-bedroom residential dwelling together with some minor improvements to the access arrangement from Pennington Lane.
5. The site is used by an organisation operated jointly by the Appellant and his wife called South Lakes Horsemanship / Unicorn & Rainbows which, under license, provides equine assisted services and therapies to individuals and school groups suffering from autism and other emotional and behavioural difficulties. Several ponies and horses are kept at the stables on site but the

Appellant lives around 4 miles away. The new dwelling would be occupied by the Appellant allowing him and his wife to provide around-the-clock husbandry to the ponies and horses.

Barn Conversion

6. Council policy broadly seeks to prevent new development in the open countryside, only permitting it exceptionally where a rural location is essential or where it is essential for the operation of an existing business. Proposals for essential dwellings for workers in the countryside will be permitted where they meet the relevant criteria. For the avoidance of doubt, new development includes the material change of use of an existing building, such as a barn, to a residential dwelling.
7. To achieve a 5-star operating license the Appellant is required to provide on-site presence during the evening and at night. At present this is not possible. Furthermore, an around-the-clock presence would help to deter any would-be criminals from entering the appeal site.
8. It seems reasonable to believe that the welfare of the ponies and the horses would be improved if the Appellant or another worker were either to be on site or close at hand at night. However, whilst night-time on-site presence might be a regulatory requirement to attain 5-star status no evidence has been submitted by a Veterinary Surgeon or by the licensing body to suggest that it is required in support of the current 3-star accreditation. In the absence of this expert evidence I consider that the current arrangement meets the required minimum standard consistent with 3-star accreditation.
9. The Appellant has confirmed that if planning permission were granted, he would enter a unilateral undertaking under s.106 Town and Country Planning Act 1990 tying the occupation of the dwelling to the operation of the stabling yard. However, no such undertaking has been submitted to this appeal. Consequently, I am unable to give any great weight to this statement.
10. The submitted company accounts prepared by Knox Accounting show that Unicorn and Rainbows (Cumbria) Ltd was established in April 2018. During 2018/19 it made an operating profit of £1551. At the time of the appeal, therefore, the company has been operating for around 2.5 years.
11. The company has demonstrated a very limited profit for one year. Of course, there is a growing awareness of the societal problems associated with various forms of mental illness and this might lead to increased usage of the company's services. However, there are also continuing downward pressures on local education budgets which might impact adversely upon the company's business operations. Consequently, the company does not seem to be able to demonstrate that it is financially sound.
12. The Appellant has not identified any other dwellings within the local area that might allow him to have easier access to the stables. For example, the village of Pennington is only about 400-500 metres away. There are no other units on the site which could be converted to a dwelling although, if there were, they too would be subject to the same tests as apply to the current appeal proposal. Furthermore, the Appellant has not disposed of any buildings within the last 3 years that might have fulfilled this local area requirement.

13. With the exception of the roof which is fabricated from galvanised steel the barn building has a domestic rather than an agricultural appearance. It is constructed of grey wet dash render which is widely used in the construction of residential properties. It does not comply with Historic England's definition of a traditional building which is one of solid (not cavity) wall construction or solid timber frame erected prior to 1919. Accordingly, it cannot be described as traditional in appearance or traditional in design.
14. During my visit I noted that there were some domestic items on the property but apart from that it seemed to be redundant, no longer serving any agricultural purpose.
15. However, because the Appellant has not been able to demonstrate a functional need for on-site presence, has not provided a completed s.106 unilateral undertaking tying the dwelling to the business operation, has not been able to demonstrate that the company has been in business for at least 3 years and has a sound financial basis, has not been able to demonstrate that there are no other alternative dwellings available within the nearby village and has not been able to demonstrate that it is a traditional building, he has not been able to demonstrate that the development proposal would constitute an essential rural worker's dwelling.
16. For these reasons it would fail to accord with Policies CS1.2 and CS8.1 of the South Lakeland Local Development Framework Core Strategy 2010 (CS) which, respectively, only permits development in the open countryside where there is an essential requirement for a rural location and seeks to prevent inappropriate development in the countryside. Although the CS is quite old it is still part of the Development Plan and its emphasis on seeking to discourage inappropriate development within the open countryside remains consistent with the later published National Planning Policy Framework (the Framework).
17. Further, it would fail to comport with Policies DM15 and DM16 of the Development Management Policies Development Plan Document 2019 (DPD) which, respectively, identify 7 inclusive criteria for the development of essential workers' dwellings in rural areas and which require redundant barns proposed for residential conversion to be of a traditional construction.

Character and Appearance

18. The development proposal would not change the appearance of the existing barn building other than through the installation of a new entrance door at one end. There would, however, be an inevitable degree of domestication of the immediate surroundings through the introduction of a more formal garden area and the possible appearance of outside tables and chairs. In addition, it is likely that there would be more vehicles parked in close proximity.
19. Given the wall along the edge of the site it is unlikely that these changes would be readily noticeable to those passing by. On balance, the proposed change of use would enhance the setting of the existing building.
20. Consequently, in this regard the proposal would accord with the advice set out at Paragraph 79 of the Framework that isolated homes in the countryside should be allowed where they would re-use a redundant building and enhance its setting.

Other Matters

21. Under Schedule 2, Part 3, Class Q of the Town and country planning (General Permitted Development) (England) Order 2015 it is possible for an applicant to seek prior approval for conversion of a barn to a residential dwelling. However, this is subject to various qualifications and requirements which would have to be addressed through an appropriate application for prior approval. Accordingly, I give little weight to this submission.
22. Under the Equalities Act 2010 certain characteristics including disability are deemed to be protected. There is a duty of public sector bodies to avoid either direct or indirect discrimination and to promote equality. I am aware that the refusal of the appeal would not help the operation of the enterprise since undertaking a round trip of 8 miles to get to and from the stables would remain a burden on the Appellant.
23. Nevertheless, under Policy DM15 of the DPD there is the possibility of securing planning permission for the construction of temporary residential accommodation on the site until such time as the business has established itself as a viable enterprise. The decision in this appeal would not affect that opportunity. Moreover, the Appellant could move closer to the site to secure an enhanced level of livestock care. Consequently, the decision in this appeal would not jeopardise the continued operation of the facility and so would not discriminate directly or indirectly against disabled people or any other individuals or groups with protected characteristics.
24. Use of the building as a dwelling would result in an efficient use of land and would lead to a reduction in the use of the car for round trips. The use of the site for equestrian purposes is also consistent with the promotion of healthy places and with access to the countryside as advised by Paragraphs 91c) and 118a) of the Framework. It would also contribute to the delivery of housing although I am not aware of any deficiency in the 5-year supply requirement.
25. The Appellant has received very positive and complimentary feedback from parents about the facility. Letters have also been submitted by local people supporting the development proposal.

Planning Balance and Conclusion

26. The development proposal would not adversely harm the character or appearance of the area. Furthermore, it would help to reduce emissions, promote outdoor access and recreation and contribute to housing land delivery. These are planning benefits, albeit very limited, which are acknowledged. However, it would conflict with the Development Plan by failing to meet the tests concerning the development of dwellings in the open countryside for essential workers. This conflict is so fundamental that it clearly outweighs the aforementioned planning benefits.
27. For these reasons the appeal should be dismissed.

William Walton

INSPECTOR