



Appeal Decisions

Site visit made on 16 December 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2021

Appeal A Ref: APP/C9499/W/20/3258435 Brockholes Farm, Tebay, Penrith CA10 3XT

- 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 Mr Andrew Cox against the decision of Yorkshire Dales National Park Authority.
 - The application Ref E/15/10, dated 1 May 2020, was refused by notice dated 24 July 2020.
 - The application sought planning permission for conversion of barns to three holiday cottages, private sewage plant and amenity area without complying with a condition attached to planning permission Ref 04/0650, dated 28 September 2005.
 - The condition in dispute is No 2 which states that: The premises shall not be let to any person or connected group of persons for a period exceeding eight weeks in any one calendar year.
 - The reason given for the condition is: To ensure the premises are available for short term let purposes.
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Appeal B Ref: APP/C9499/W/20/3258427 Brockholes Farm, Tebay, Penrith CA10 3XT

- 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 Mr Andrew Cox against the decision of Yorkshire Dales National Park Authority.
 - The application Ref E/15/9, dated 1 May 2020, was refused by notice dated 24 July 2020.
 - The application sought planning permission for creation of two new units for holiday let (one suitable for disabled use) without complying with a condition attached to planning permission Ref 06/0762, dated 15 November 2006.
 - The condition in dispute is No 5 which states that: The premises shall not be let to any person or connected group of persons for a period exceeding eight weeks in any one calendar year.
 - The reason given for the condition is: The development hereby approved is justified as being a tourist holiday accommodation-based scheme and is in a location where unjustified market-led residential development would be contrary to the revised Policy H14 of the Eden Local Plan Review (2004).
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Decisions

1. Appeal A is dismissed.

2. Appeal B is dismissed.

Preliminary Matter

3. In 2016 the boundary of the Yorkshire Dales National Park (YDNP) was extended to incorporate a portion of Eden District. However, at the time the National Park Local Plan had just been adopted which excluded this area. Consequently, the National Park Authority then adopted the Eden District Local Plan (EDLP) for this portion of the National Park until such a time as a new Local Plan for the entirety of the park could be drafted and adopted. I have therefore determined the appeal on this basis.

Main Issue

4. The main issue in both appeals is whether the disputed condition is reasonable and necessary in order to ensure the availability of enough short-term holiday accommodation in the area.

Reasons

5. The appeal properties are located on Brockholes Farm, a farmstead in an isolated rural location in a picturesque part of the Cumbrian countryside. They are also situated within the YDNP.
6. Policy EC4 of the adopted EDLP states that planning conditions may be imposed where necessary to avoid permanent residential use of small-scale tourist accommodation or that seasonal restrictions may be imposed where necessary to safeguard the landscape. Objective E2 of the adopted YDNP Management Plan (MP) aims to improve the quality, variety, and marketing of the tourism 'offer' to encourage more overnight stays and more visitors in the quieter months. National Parks in England also have two statutory purposes as set out under the Environment Act 1995, firstly to seek to conserve and enhance the cultural heritage of the National Parks and secondly, to promote the understanding and enjoyment of their special qualities.
7. The removal of the disputed conditions would result in there being the potential for relatively long-term holiday lets exceeding eight weeks in any calendar year on the respective premises. In their statement the appellant highlighted that this would be desirable as local people and visitors are looking for longer periods to stay particularly over the winter. Consequently, should these conditions be removed, it would be reasonable to think that the holiday accommodation would likely be let for longer periods of time and that this would reduce the availability of that accommodation for short-term holiday lets. Further, without any time-limit on the length of these holiday lets it would also be reasonable to think that they could for all intents and purposes possibly also continue indefinitely and beyond the winter months.
8. Consequently, the proposed removal of the disputed conditions would likely result in there being less choice of holiday accommodation in the area, and in turn potentially less visitors to the area overall. Furthermore, for Appeal B, as one of the properties was specifically for disabled users, it would also lead to there likely being less temporary holiday accommodation being available for those users. Moreover, the proposal would mean that the appeal premises could also be more likely to become de-facto semi-permanent residences even though I note that this, or indeed their conversion to permanent residences, is

not the appellant's intention. As a result, the proposal would be contrary to the objectives of Policy EC4 of the EDLP and objective E2 of the MP, nonetheless.

9. I acknowledge that the COVID-19 pandemic has had a temporary impact on the tourist economy and that as a result there is potentially less demand currently for short-term holiday lets and that longer letting periods could possibly provide more financial security for such businesses. However, the appellant has not submitted any substantive evidence showing how their business has been affected and indeed whether there has been a substantial drop in the demand for short term holiday lets at the appeal properties. Consequently, I cannot be certain that the removal of the disputed conditions would improve the financial security of the business.
10. I also acknowledge the appellant's point that the industry has moved on since the original permission was granted with more people taking longer leisure breaks more than once a year. However, no substantive evidence has been submitted to support this. In any event, even if this was the case, the removal of the disputed conditions does not necessarily mean that the appeal premises would be more likely to be let out for longer periods than for shorter ones.
11. Accordingly, I conclude that the disputed conditions for Appeal A and Appeal B are both reasonable and necessary in order to ensure the availability of enough short-term holiday accommodation in the area. The removal of these conditions would therefore conflict with Policy EC4 of the EDLP, objective E2 of the MP and the second statutory purpose of the YDNP.

Other Matters

12. In support of the appeal the appellant has cited a similar proposal that was granted planning permission (Ref 13/0879). However, I do not have all the details of this case before me or the circumstances which led to that decision being taken. In addition, the circumstances applicable to that scheme are not the same as those presented in this case, which I have determined on its own merits, as it appears to have been determined under previous development plan policies and related to the removal of a seasonal restriction at a caravan park.
13. I also note that the permissions subject to Appeal A and Appeal B both have an additional condition imposed which restricts their use to holiday accommodation only which the appellant does not dispute. However, while these conditions do restrict the occupancy of the premises to holiday-makers, they do not prevent them being let to such occupiers for lengthy periods of time meaning that, as discussed above, they could in actual fact be used as semi-permanent residential accommodation and less likely be used for temporary holiday accommodation.

Conclusion

14. For the reasons set out above, and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

C Coyne

INSPECTOR