
Appeal Decision

Site visit made on 1 March 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2021

Appeal Ref: APP/Q9495/W/20/3263487

Mireside, Bassenthwaite CA12 4QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Green against the decision of Lake District National Park Authority.
 - The application Ref 7/2020/2198, dated 28 August 2020, was refused by notice dated 21 October 2020.
 - The development proposed is the conversion of former milking parlour to form local needs dwelling.
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Decision

1. The appeal is allowed. Planning permission is granted for the conversion of former milking parlour to form local needs dwelling at Mireside, Bassenthwaite CA12 4QZ in accordance with the terms of the application Ref 7/2020/2198 dated 28 August 2020 subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area and on the public right of way (PROW).

Reasons

Character and appearance of area

3. The appeal site relates to a former milking parlour which is single storey and largely formed of red brick, located a short distance to the north of a cluster of buildings which form Mireside Farmyard. The buildings around the yard include the grade II listed farmhouse.
4. The site is reached by a private tarmac access that runs from the Bassenthwaite/Scarness Road. The former milking parlour has limited public visibility from the road due to the extensive presence of trees and hedgerows to the nearby field boundaries. It can be viewed from the passing footpaths, although a hedge to the east offers partial screening. Overall, the building sits quietly within the landscape.
5. The building would be sensitively converted, making good use of the existing openings. It could not be described as a typical Lakeland agricultural building, largely as a result of its use of brick as opposed to stone which prevails within the area.

6. However, it is clearly of some age, has some interest in relation to the evolution of the farm and is on the whole a modest and inoffensive building that as a result of its discrete setting, conserves the natural beauty of the National Park.
7. The rather unsightly breeze block addition and concrete pad at the northern end which are of poor appearance and condition would be removed. The land to be used as the garden area is separated from the surrounding open fields by hedging and streams to the north and west and would form a natural and largely screened curtilage within the landscape. Despite the proposed removal of some trees immediately to the west of the building, the screening would mean that lighting and other domestic activity would be unlikely to be overly prominent.
8. I conclude on this issue that the proposal would not have any unacceptable adverse impact on the character and appearance of the area. The proposal would therefore accord with Policy C7 of the Saved 1998 Local Plan Policies (LPP) which amongst other things requires that in cases of the conversion of traditional buildings, the building conserves or enhances the natural beauty of the National Park by reason of its location, design, massing and form and setting in the landscape.
9. The proposal would also accord with Policies CS02 and CS25 of the Core Strategy (2010) (CS) which amongst other things support development in the open countryside for the appropriate reuse of an existing building that protects the Lake District National Park's spectacular and inspirational landscape.
10. The National Planning Policy Framework (2019) acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and states that this should be taken into account in decision-making. As the CS makes some provision for development in the open countryside, some instances where there would be a reliance on the car could inevitably be expected. The proposal would not therefore conflict with Policy CS14 of the CS which broadly seeks to reduce the need to travel within the National Park.

Effect on footpath

11. The evidence indicates that a PROW runs through the appeal site. I observed on site that the natural route on the site appeared to be along the track to the south of the building and out into the field to the west to avoid the need to traverse streams that otherwise border the site. It is likely that such a route could be accommodated easily within the proposal. The proposal would not unacceptably affect the enjoyment of walkers using the path.
12. However, in any case, the grant of planning permission does not authorise any obstruction or interference with the PROW. I therefore conclude on this matter that the proposal would not therefore be likely to compromise the accessibility that the footpath provides and would not therefore conflict with Policy CS14 of the CS which encourages the use of sustainable modes of transport.

Other Matters

13. The proposal is for a local needs dwelling for which there is an identified need within the area outlined within the supporting text of Policy CS04 of the CS. This matter adds weight in favour of the proposal.

14. I must have special regard to the desirability of preserving the setting of a listed building. The Council have not identified any unacceptable impact in respect of the nearby grade II listed building and I have no reason to disagree. They also state that the proposal would have no unacceptable impact on the Lake District World Heritage Site, and again, I have no reason to disagree.
15. I have not found conflict with other development plan policy which has been brought to my attention relating to design quality and sustainable development, housing provision, geodiversity and biodiversity and the historic environment.

Conditions

16. As well as the standard time limit, I have imposed a condition in the interests of certainty concerning the approved plans. Given that the site is previously developed and the proposal does not confirm the absence of contamination, combined with the change to a more sensitive receptor, a contaminated land condition is necessary.
17. A condition restricting the occupation of the dwelling to a person with a local connection as their only or principal home is necessary in the interests of the evidenced housing needs of the area. A condition which seeks a reduction in CO2 emissions is necessary in the interests of promoting sustainable development and justified by reason of Policy CS16 of the CS.
18. While planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so, such a condition is necessary in this case. I have amended the condition supplied by the Council in the interests of precision and clarity. It restricts permitted development rights relating to the enlargement, improvement or other alteration of the dwelling, additions or other alterations to the roof, porches, buildings and hard surfaces, gates, fences or walls and exterior painting. It is necessary in order to protect the character and appearance of the area.

Conclusion

19. The appeal should therefore be allowed.

T J Burnham

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 18.21-01 & 18.21-02a.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.
- 4) The dwellinghouse hereby permitted shall not be occupied otherwise than by a person with a local connection as his or her only or principal home, or the widow or widower of such a person, and any dependents of such a person living with him or her.

The occupant will supply to the local planning authority (within 14 days of the local planning authority's written request so to do) such information as the authority may reasonably require in order to determine whether this condition is being observed.

In this condition the following definitions apply:

'person with a local connection' means an individual who before taking up occupation of the dwelling satisfies one of the following conditions:

- (1) The person has been in continuous employment in the locality defined for at least the last 9 months and for a minimum of 16 hours per week immediately prior to occupation; or

(2) The person needs to live in the locality defined because they need substantial care from a relative who lives in the locality defined, or because they need to provide substantial care to a relative who lives in the locality defined. Substantial care means that identified as required by a medical doctor or relevant statutory support agency; or

(3) The person has been continuously resident in the locality defined for three years immediately prior to:

- a) needing another dwelling resulting from changes to their household, including circumstances such as getting married, divorced, having children, or downsizing.
- b) undertaking full-time post-secondary education or skills training and is returning to the locality defined within 12 months of its completion, or
- c) being admitted to hospital, residential care or sentenced to prison, and are returning to the locality defined within 12 months of their discharge/release, or

(4) The person is a person who –

- a) is serving in the regular forces or who has served in the regular forces within five years prior to occupation;
- b) has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where -
 - i. the spouse or civil partner has served in the regular forces; and
 - ii. their death was attributable (wholly or partly) to that service; or
- c) is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service.

'Locality' shall mean the administrative areas of the Parishes of: Above Derwent, Bassenthwaite; Bewaldeth and Snittlegarth; Blindbothel; Borrowdale; Buttermere and Brackenthwaite; Caldbeck; Embleton; Keswick; Lorton; St Johns, Castlerigg and Wythburn; Setmurthy; Threlkeld; Underskiddaw; Wythop; and those parts of the Parishes of Blindcrake; Ireby and Uldale; and Loweswater which lie within the administrative area of the Lake District National Park.

An 'only or principal home' is a dwellinghouse which is occupied continuously for a minimum period of six months in every twelve month period. For the avoidance of doubt the dwelling shall not be occupied as a second home or for holiday letting accommodation.

The obligations contained in this condition shall not be binding or enforceable against any mortgagee or any receiver appointed by such a mortgagee, or any person deriving title through such a mortgagee or receiver provided always that a successor in title of such a person will be bound by the obligations contained in this condition.

- 5) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, D, E and F and Schedule 2, Part 2, Classes A and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling nor additions or other alterations to the roof of the dwellinghouse shall be made and no porches shall be constructed, there shall also be no buildings etc or hard surfaces incidental to the enjoyment of the dwellinghouse and no gates fences or walls or exterior painting unless details have previously been submitted to and approved in writing by the local planning authority.
- 6) Prior to the first use of the development hereby permitted, at least a 10% reduction of the predicted CO2 emissions of the development shall be secured from decentralised and renewable or low carbon energy sources. Details and a timetable of how this is to be achieved, including details of any physical works on site, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.