



Appeal Decision

Site Visit made on 21 September 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/Q9495/W/21/3277123

Old Joiners Shop, Access Road Through Threlkeld To And From The A66t, Threlkeld CA12 4SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Graham Teasdale against the decision of the Lake District National Park Authority.
- The application Ref 7/2020/3144, dated 27 November 2020, was refused by notice dated 20 January 2021.
- The application sought planning permission for the conversion of a disused building into living accommodation without complying with a condition attached to planning permission Ref 7/2018/3041, dated 3 August 2018.
- The condition in dispute is No 3 which states that: 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; Blindboethel; 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.

- The reason given for the condition is: To ensure that the resulting accommodation is occupied by persons with a defined local need in order to comply with Lake District National Park Core Strategy (Local Plan Part One) Policy CS18 and the accompanying Housing Provisions: Supplementary Planning Document. The provisions relating to armed forces personnel are in accordance with the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant seeks permission to vary the condition in dispute to allow the dwelling to be occupied for the purposes of short term holiday letting accommodation or as a local occupancy dwelling.
3. The Council's decision refers to the Lake District National Park Core Strategy and the Housing Provision Supplementary Planning Document (Significant amendment February 2019). These have been superseded by the Lake District National Park Local Plan 2020-2035 (the Local Plan) and the Housing Supplementary Planning Document How we use Policy 15: Housing in planning decisions (the SPD). The Council's officer report referred to the Local Plan as emerging at the time. The adopted version is not materially different insofar as it is relevant to the main issue and the Council referred solely to the Local Plan and the SPD in its statement, which the appellant has seen. I have referred to the Local Plan and the SPD in my findings.
4. I have afforded the main parties an opportunity to comment on the publication of the new Framework¹. I have taken it and any comments made thereon into account.
5. Based on the submitted information, the appeal property has been occupied on occasions for holiday purposes. I have therefore dealt with the appeal under section 73A of the Town and Country Planning Act 1990.

Main Issue

6. The main issue is whether it is necessary and reasonable to restrict the occupation of the dwelling to persons with a local connection who would use it as their only or principal home to meet an identified local need.

Reasons

7. The appellant states that the property is being offered for sale but there is no interest, and this is likely due to the lack of any private external amenity

¹ The National Planning Policy Framework 2021

space, lack of privacy, proximity to the road, relatively small internal floorspace with cramped rooms and lack of storage and the inability to create more openings in the property to secure more natural light due to it being a listed building. The appellant thus considers that the size and configuration of the dwelling is unsuitable for permanent residential occupation and is therefore more suited to short term holiday letting.

8. The use of occupancy restrictions is a long-standing approach of the Council given the pressure on the existing housing stock and to support the requirement to foster the economic and social well-being of communities. It is supported by Policy 15 of the Local Plan which seeks, amongst other things, to increase the supply of homes to meet local community need through supporting new permanent homes that contribute towards helping communities remain vibrant and resilient; achieve a better balance in the housing market; and are secured in perpetuity for permanent occupancy with eligibility restricted to a geography that is tailored to local circumstances.
9. The supporting text for Policy 15 explains that there is immense pressure on the existing housing stock in many areas of the Lake District, due in part to those buying second or holiday homes for letting. The supporting text identifies that earnings in many of the rural areas within the National Park are lower than in neighbouring urban areas, due to a lack of large industry and greater levels of agriculture and tourism, making it difficult for people relying on local wages to compete for housing in an open market. The SPD reiterates this approach, confirming that all new houses approved will be for permanent occupancy and restricted to those who can demonstrate they have a need to live in the area.
10. The appeal property is relatively small, although it is larger than it appears from the outside given that the floor level is lower than the road. The dwelling provides the facilities required for day-to-day living. When inside, it does not feel particularly cramped although the second bedroom is small, with the usable area further reduced due to the sloping roof. Given the size, number and orientation of windows, there is likely to be sufficient natural light to undertake many of the usual household tasks for much of the day. For the same reasons, outlook for occupiers is acceptable. The property abuts the road and there is scope for passing pedestrians or drivers to view into the property. However, this is not an uncommon arrangement for other properties in the village and the rooms that front onto the road also have windows in the southern elevation with outlook over agricultural fields. There is limited outdoor amenity space but what is available allows for access to the property and provides some useable space for occupiers. Accordingly, the appeal property does provide suitable living conditions for a smaller household.
11. No meaningful evidence has been submitted by the appellant that demonstrates the appeal property has been marketed at a realistic value. For example, no detailed valuation reports or independent valuations have been included to validate the asking price. There is also no information on how the appeal property has been marketed. At the time of my site visit, the for sale notice board included a statement that it is sold subject to contract. Accordingly, it would be premature to conclude that the appeal property is not of interest for permanent residential accommodation.
12. Based on the evidence submitted, local occupancy housing clearly has a role in helping to achieve a balanced and resilient housing market with a high

proportion of properties in permanent occupation, and a supply of new homes that meet peoples' needs. The appeal property provides satisfactory living conditions for permanent residential occupancy. Furthermore, the appellant has not clearly demonstrated that there is no interest in the appeal property as permanent residential accommodation.

13. Consequently, the proposed variation of the disputed condition, even though it would retain the option of local occupancy, would be contrary to the strategic approach to housing being implemented by the Council to retain a vibrant and resilient community and a balance in the housing market in the area. As such, the variation of the disputed condition would conflict with Policy 15 of the Local Plan, the aims of which have been summarised above. It would also conflict with the SPD in this regard.
14. As I have found that the proposed development is suitable for providing permanent residential accommodation, the proposed variation of the disputed condition would also conflict with Policy 18 of the Local Plan which supports proposals for the reuse of existing buildings for short term holiday letting where they would not utilise a building that is suitable for providing local need or affordable needs housing amongst other matters.
15. I therefore conclude that the retention of condition no. 3 in its current form is both necessary and reasonable to restrict the occupation of the dwelling to persons with a local connection who would use it as their only or principal home to meet an identified local housing need.

Other Matters

16. The appellant draws attention to an appeal decision that it is considered has parallels with the current appeal proposal. I have not been presented with the full details of that case, nor the evidence which was in front of the inspector at the time the decision was made. In any event, I have considered this appeal on its own merits.
17. The appeal property is a listed building that makes a positive contribution to the character of the area. The appellant states that to help maintain its fabric, character and appearance a suitable use needs to be identified. Whilst being mindful of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, I have found that the appeal property is suitable for permanent residential occupation and that insufficient evidence has been provided to demonstrate that it is not of interest for such a use. This matter does not therefore outweigh the harm that I have identified.

Conclusion

18. The proposed variation of condition would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR