



Appeal Decision

Site visit made on 28 June 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2022

Appeal Ref: APP/M0933/W/22/3293094

**Lodge, Willowsway Stud, Willowsway Country Estate, Stainton, Kendal
LA8 0LE (351846.73, 485559.78)**

- 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 as amended by the Planning and Compensation Act 1991 for the variation of Condition 1 attached to SL/2018/0379 for which a previous planning permission was granted for a limited period.
 - The appeal is made by Mrs Hilary Waterhouse against the decision of South Lakeland District Council.
 - The application Ref SL/2021/0885 is dated 10 September 2021.
 - The application sought planning permission for the variation of Condition 1 attached to SL/2020/0673 dated 10 December 2020, which varied Condition 1 attached to permission SL/2018/0379 for 'temporary living accommodation for the duration of the construction phase of works' granted planning permission for a limited period.
 - The permission is subject to a condition requiring the removal of the temporary accommodation and any associated works no later than 30 September 2021.
 - The reason given for the condition is: To ensure that the development is compatible with the objectives of Policies CS1.1, CS1.2, CS8.2 and CS8.6 of the South Lakeland Core Strategy and Policies DM1, DM2 and DM3 of the Development Management Policies Development Plan Document.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The site lies adjacent to the Lancaster Canal and an operational equine stud and rehabilitation centre. The equine centre uses a range of former farm buildings supplemented by new purpose-built buildings and facilities. These lie in an undulating rural landscape and adjacent to the former farmhouse at Sellet Hall, a Grade II Listed Building in separate ownership. A large brick barn converted to residential accommodation within the site is also a Grade II Listed Building.
3. Temporary planning permission Ref SL/2018/0379 for 'temporary living accommodation for the duration of the construction phase of works' was granted on 17 July 2018. It permitted the siting of a lodge on the site for up to 12 months during the conversion of the listed barn and other buildings to provide homes, which were anticipated for (but not all restricted to) rural workers. This was granted on the basis of an accepted ongoing need for rural workers to be present on the equine site.

4. Following an extension of the temporary period under permission Ref SL/2019/0401, application Ref SL/2020/0673 subsequently secured a new permission extending the period for the lodge to be retained on site until no later than 30 September 2021. These permissions were sought to allow for an alternative planning permission (Ref. SL/2020/0721 granted in August 2021) to be obtained for a second permanent rural workers dwelling (Keepers Cottage) and its construction. Works on that building have begun but remain incomplete.
5. According to the Council, the conversion of a Grade II Listed barn into 4 units of accommodation is substantially complete with 1 unit being occupied, 1 let as holiday accommodation and 2 unoccupied and for sale. These buildings are shown to be within the appellant's ownership. The conversion of a building known as Paddocks is complete and occupied by a rural worker.
6. The lodge remains on the site and a further period of extension is sought for the retention of the lodge until 31 May 2023.
7. There is no dispute between the main parties that the existing equine business warrants the continuous presence of rural workers on or close to the site.
8. The main issues are:
 - whether or not there is a continuing need for a temporary form of accommodation on the site
 - the effect of the accommodation on the character and appearance of the locality
 - the effect of the accommodation on nearby heritage assets.

Reasons

Accommodation

9. Policy CS1.2 of the South Lakeland Local Development Framework Core Strategy [2010] (the CS) exceptionally allows new development in the open countryside where it has an essential requirement for a rural location or is needed to sustain existing businesses. This reflects the National Planning Policy Framework's (the Framework) approach to rural housing which, beyond the growth of rural villages, limits housing to that meeting an identified local need or a number of other specified exceptions, including those required to meet an essential need for a rural worker.
10. No distinction is made between permanent or temporary rural workers accommodation in the CS or the Framework. Acknowledging that a rural worker need is accepted and that there are no concerns raised in respect of the viability or longevity of the business, the Planning Practice Guidance (the PPG) is clear that consideration should be given to whether the need could be met through improvements to existing accommodation on the site, providing that such improvements are appropriate taking into account their scale, appearance and the local context.
11. In addition to the accommodation in the Paddocks, 2 units in the main barn are substantially complete but unoccupied. Notwithstanding that those dwellings are unfettered as to their occupancy, as approved development and completed to a saleable condition, the vacant units deliver an opportunity for providing rural worker accommodation on the equine site.

12. In this respect, the appellant contends that the funding for the completion of Keepers Cottage is dependent on the sale of the completed units in the listed barn and that other accommodation is occupied or allocated to others. It is also asserted that the funding situation was compounded due to the business suffering losses during the early stages of the pandemic and the outbreak of an equine disease affecting foaling. However, these claims are not supported in evidence.
13. Having regard to the Council's concerns, it was open to the appellant to provide details of the business plan/strategy, financial or other information relating to the wider site to support the case for a further temporary period. In the absence of this, or evidence that the vacant units have been sold or cannot be used for alternative reasons, I find the ongoing need for the temporary provision has not been adequately demonstrated.
14. I acknowledge the appellant's contention that delays in obtaining an alternative permission for Keepers Cottage have caused the appellant to seek a further extension. I also note the delays in its construction due to the effects of the pandemic and the subsequent poor availability of materials and building contractors. However, this does not alter the current position whereby other existing forms of accommodation on the equine site could potentially provide for an additional rural worker.
15. Accordingly, I find the necessary justification for an additional residential unit on the site has not been adequately demonstrated. An extension to permit its retention on the site would not therefore be justified on the basis of the evidence before me. The proposal would conflict with Policy CS1.2 of the CS as it seeks to limit residential development in the open countryside.

Character and appearance

16. Development in the locality is characterised by isolated or clustered vernacular stone buildings scattered over a rural landscape. Some modern agricultural sheds are also present within established and former farmsteads.
17. The accommodation appears as a single storey timber clad lodge. It is located adjacent to the canal and alongside a group of trees and a pond. It appears separate from the main extended group of stone and masonry buildings within the cluster of the former farm and more recent equine buildings.
18. The appearance of the lodge contrasts starkly with the predominant character of development in the locality. It imposes in an otherwise largely undeveloped corridor along this part of the canal which provides a buffer between the canal and the original group. Although the locality benefits from a degree of enclosure by the local topography and some established trees such that longer views are limited, it is positioned in an open location and is clearly visible from the towpath and canal road bridge.
19. The contrasting form and appearance draws the eye to emphasise its presence in the local landscape. It has the effect of extending the visible envelope of built development from the established group and imposes on the sense of openness of the rural landscape. Accordingly, I find it fails to respond to its local context or the prevailing character of development in the vicinity.
20. It is contrary to Policy CS8.1 of the CS and Policies DM1 and DM2 of the Local Plan Development Management Policies [2019] (the DMP) as they require

proposals to respond to the character and distinctiveness of their locations and avoid harm to the countryside and landscape settings.

Heritage assets

21. The lodge lies close to the Grade II listed barn. The building provides a good example of a vernacular agricultural barn consisting of several phases of development about a central gabled element. It is constructed in random stone, a graduated slate roof and with stone header, sills, quoins and ridge-stones. The forward gable includes a date stone of 1746.
22. The accommodation can also be seen in the context or framed by 2 Grade II listed canal bridges on the Lancaster Canal - itself a non-designated heritage asset. The bridges are constructed in limestone with stone string courses and copings.
23. A Grade II listed building at Sellett Hall lies to the north. The original building is described as dating from the late C16 with multiple later additions. Also constructed having rubble walls and a graduated slate roof with chimney stacks, the building features some stone mouldings and chamfered stone mullions and window surrounds.
24. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
25. The accommodation would have no direct effect on the heritage assets. However, pursuant to my finding in relation to the effect of the lodge on the character of the locality and the fact that it can be clearly seen in the context of the listed bridges, the canal and the listed main barn, it detracts from the open rural character forming the setting of those buildings/structures. The effect on Sellett Hall would be limited to approach views on the elevated part of its driveway on account of the surrounding vegetation; nevertheless, a minor effect on its setting would be apparent from that location.
26. As a temporary form of accommodation lying at distance from those buildings and structures, the harm would be no greater than less than substantial within the context of Paragraph 202 of the Framework. However, less than substantial harm does not equate to a less than substantial planning objection.
27. Paragraph 202 of the Framework identifies that where less than substantial harm to the significance of a designated heritage asset occurs, this harm should be weighed against the public benefits of the proposal. I undertake this assessment within the overall conclusion of this decision. Nonetheless, at this stage it is important to recognise that the proposal would be contrary to Policy CS8.6 of the CS and PolicyDM3 of the DMP as they require development to have a positive relationship with its historic context and to conserve or enhance designated or non-designated heritage assets, including their setting.

Other Matters

28. I note the Council's contention that planning permission was sought to use the lodge for alternative purposes. However, as no permission was granted, this is a matter of neutral weight in my consideration of the appeal.

Planning Balance and Conclusion

29. The PPG¹ advises that a second [or subsequent] grant of temporary planning permission will rarely be justified. In the absence of evidence to demonstrate that existing vacant accommodation on the equine site could not be used to meet the rural workers accommodation requirements, I find that the proposal would conflict with the local development plan and national policy aimed at protecting the countryside from isolated new homes. This is a matter to which I attribute significant weight.
30. Moreover, the lodge detracts from the character and appearance of the locality and the intrinsic character and beauty of the countryside. Its presence also causes harm to the open countryside setting of heritage assets in the locality. These are matters to which I attach great weight.
31. The proposal would support an existing business. As an existing rural worker is resident on the site such that emergencies could be notified or dealt with directly, albeit on a potentially more restricted basis, this is a benefit limited to no more than moderate weight in favour of the proposal.
32. Taking all of the above together, I find that, in the particular circumstances of the case, the arguments presented by the appellant including the delays in obtaining an alternative permission for Keepers Lodge, and the effects of the Covid-19 pandemic on builder and materials availability, do not outweigh the totality of the harm identified.
33. For the above reasons, I conclude that an extension of the time for the siting of the lodge has not been justified. The proposal 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 the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

R Hitchcock

INSPECTOR

¹ Paragraph: 014 Reference ID: 21a-014-20140306