



Appeal Decision

Site visit made on 25 October 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/M0933/W/22/3300443

Helm Mount Farm, Barrows Green, Kendal LA8 0AA

- 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 Heginbotham against the decision of South Lakeland District Council.
 - The application Ref SL/2021/0932, dated 24 September 2021, was refused by notice dated 24 March 2022.
 - The development proposed is conversion of store to provide one accessible holiday let.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of store to provide one accessible holiday let at Helm Mount Farm, Barrows Green, Kendal LA8 0AA in accordance with the terms of the application, Ref SL/2021/0932, dated 24 September 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form, which is different to that in the Council's decision notice. It is also clear from the documents and plans submitted that the proposal includes external extensions and alterations. The Council assessed the scheme on this basis and so have I. However, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue is whether the appeal site is a suitable location for the proposed use, having regard to the development plan and national planning policy.

Reasons

4. Policy CS1.2 of the South Lakeland Core Strategy 2010 (CS) sets out the distribution strategy and settlement hierarchy for development in the area. The appeal site is located in open countryside where new development will exceptionally be permitted where, amongst other criteria, it involves the appropriate change of use of an existing building.
5. Development Management Policy DM16 (DMP) outlines the Council's approach to the conversion of traditional buildings in rural areas. It states that the conversion and re-use of buildings in the open countryside for, amongst other

- uses, tourism, will be supported where seven criteria can be met. The first criterion requires the building to be of traditional materials and construction, of a traditional design and constructed in a permanent and substantial manner.
6. The appeal site comprises part of a single storey stone-faced building and an associated parking area. The building is adjacent to two holiday lets and two traditional dwellings that, together, form a cluster of rural buildings. The other part of the building is presently in use in association with the adjacent holiday lets as a living room/games room/storage. Whilst the building appears to be of traditional external design and appearance, it was constructed relatively recently from a 2013 permission¹.
 7. The appeal building is not traditional. In reaching this conclusion, I have been drawn to a recent appeal decision on the site² which was dismissed in 2021, the details of which have been provided by both main parties. That proposal was also for the conversion of part of the building into a wheelchair accessible holiday let. The Inspector concluded that the appeal building, despite its traditional cues, exhibited modern, non-traditional origins. Consequently, the Inspector determined that the first criterion of Policy DM16 was not met, and the proposal amounted to an inappropriate change of use in conflict with Policy DM16 of the DMP and CS1.2 of the CS.
 8. The Council consider that as the proposed conversion would involve the same building as that proposed in the recent appeal decision, the same conclusion should be drawn. I have given the recent appeal decision significant weight in my considerations and, in so far as the first criterion of Policy DM16 relates to the appeal, conclude that the building is non-traditional.
 9. Notwithstanding the above, the proposal would provide an accessible holiday let, which would, as recognised by the previous Inspector, gain support in principle from Policy DM16.
 10. Providing holiday accommodation for those requiring accessible space due to age or disability is appropriate and consistent with paragraph 130 of the Framework³ which seeks to ensure planning decisions create places that are safe, inclusive and accessible and which promote health and well-being. With this in mind, when considering this appeal, I have had due regard to the relevant aims of the Public Sector Equality Duty (PSED), as set out in s149 of the Equality Act 2010. Disability is a protected characteristic to which the PSED applies.
 11. The Inspector previously considered that the limited evidence submitted at the time to demonstrate the demand for, and shortage of, wheelchair accessible holiday accommodation in the area was "not sufficiently robust to justify anything more than limited weight being given to these positive factors. Thus, whilst positive, they are not sufficient to persuade me to reach a decision not in accordance with the provisions of the development plan."
 12. The ramped access to the appeal building, dedicated parking space and accessible ground floor rooms weigh in support of the proposal. In addition, the proposed development would provide accessible accommodation within half of a building whereby the other half has already been granted planning

¹ LPA Ref: SL/2013/0739

² APP/M0933/W/20/3264307

³ National Planning Policy Framework

permission to be used for holiday let purposes⁴. I saw at my site visit that this now provides additional accommodation for the two existing holiday lets adjacent to the site. The use of the appeal building for a holiday let would be consistent with this decision.

13. Furthermore, the appellant has submitted information from a number of people and organisations clarifying the demand for, and lack of provision of wheelchair accessible accommodation in the area for holidays and short term visits. This includes information from the charity Ablestay, who promote and deliver fully accessible holiday accommodation in the UK and Bendrigg Trust, who provide primarily disabled and disadvantaged people with accessible short breaks with a range of adventure holidays.
14. There is evidence that disabled people are disadvantaged by the lack of self-catering accommodation available in the area that is fully wheelchair accessible. As such, the refusal of proposed development would have a disproportionate impact on people with protected characteristics related to their disability. This conflicts with the aims of seeking inclusive places, eliminating discrimination and advancing equality of opportunity as recognised under the PSED and also in paragraphs 130(f) and 92 of the Framework.
15. Although the appeal site is not located within the Lake District National Park, as confirmed by the Council's submission, it is nonetheless located within open countryside, whilst being easily accessible to a motorway and to Kendal, an area well known for tourism. The proposal would provide enhanced facilities for disabled people in an area where there is demand for such accommodation.
16. Therefore, in accordance with the PSED and having regard to the information now provided to me by the appellant, I attach significant weight to the need to provide suitable holiday accommodation in the area and this weighs in favour of the proposed development.
17. Whilst the proposal would conflict with criterion 1 of Policy DM16 of the DMP, on the basis of the evidence submitted in this case, I am satisfied that the effect of dismissing the appeal would have a disproportionate impact on the individual with a protected characteristic in this instance. Consequently, the needs highlighted under the PSED outweigh the harm identified to the use of a non-traditional building, and the stated conflict with Policy DM16. For this reason, I find the proposal would be an exception that would accord with Policy CS1.2 of the CS, which states that "exceptionally, new development will be permitted in the open countrysidewhere it involves an appropriate change of use of an existing building".
18. Taking the above considerations into account, I conclude that the benefits outweigh any harm arising from the degree of conflict with the development plan.

Other Matters

19. The Council refer to the Framework in relation to the creation of isolated dwellings in the countryside. However, the proposed development is for holiday accommodation, and this is conditioned. The alterations to the building in order to facilitate the change of use are acceptable.

⁴ LPA Ref: SL/2015/1054

Conditions

20. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) in terms of the use of planning conditions. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. In addition to the statutory requirement time limiting the consent, a condition is necessary requiring the development to accord with the approved plans in the interest of certainty.
21. To ensure adequate provision is made for the management of sewage disposal in this countryside location, a drainage condition is necessary. A condition requiring the implementation of a bird box is necessary to enhance biodiversity.
22. I have given careful consideration to the inclusion of Condition 5, having had regard to the PPG's advice on the inclusion of restrictive conditions and Paragraph 80 of the Framework regarding isolated homes in the countryside. In this instance, the Council's suggested condition is necessary to restrict the occupation of the building in order to support the tourism industry in relation to wheelchair accessible accommodation and prevent its occupation as a permanent dwelling.

Conclusion

23. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Veevers

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:
'Scheme Proposals' Drawing Number 01 Revision D
'Location Plan' Drawing Number 2279-01 Revision P1
- 3) The development hereby permitted shall not be occupied until the disposal of sewage works have been implemented in accordance with i) details that shall first have been submitted to and approved in writing by the local planning authority and ii) in accordance with a validation report that demonstrates that the drainage scheme has been carried out in accordance with the approved details. The approved works shall be retained as such thereafter.
- 4) Prior to first use of the development hereby permitted, the biodiversity net-gain measure shown on Drawing Number 01 Revision D, wall mounted bird box on the south-west elevation, shall be installed. Thereafter, the approved bird box shall be retained for the lifetime of the development, replaced on a like-for-like basis as necessary.
- 5) The building shall not be occupied other than as holiday accommodation or ancillary accommodation to Helm Mount Farm. It shall not be used at any time as sole and principal residences by any occupants or be occupied independently by any family, group or individual for more than three months (cumulative) in any one calendar year.

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