



Appeal Decision

Site visit made on 7 February 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal Ref: APP/Q9495/W/22/3305385

Barkbooth, Winster, Windermere LA23 3NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mike Caldwell against the decision of Lake District National Park Authority.
- The application Ref 7/2021/5693, dated 17 August 2021, was approved on 18 February 2022 and planning permission was granted subject to conditions.
- The development permitted is conversion of a barn to a dwellinghouse.
- 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 immediately prior to 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; 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 former resident who lived in the Locality defined for three years and then lived outside the Locality defined for social and/or economic reasons and is returning to live in the Locality defined within three years of the date of their departure, or*
 - (5) *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: Broughton East; Cartmel Fell; Crook; Crosthwaite and Lyth; Hugill; Kentmere; Lakes; Lindale and Newton in Cartmel; Longsleddale; Nether Staveley; Over Staveley; Skelwith; Staveley in Cartmel; Underbarrow and Bradleyfield; Windermere; Witherslack; Meathop and Ulpha; and those parts of the Parishes of: Grayrigg; Helsington; Levens; Strickland Ketel; Strickland Roger; Selside and Fawcett Forest; and Whinfell 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 Policy 15 of the Lake District National Park Local Plan 2020 - 2035 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.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission for the conversion of a barn known as Barkbooth Barn was originally granted through planning permission reference 7/2021/5693. Since that grant of planning permission, an application under section 96A of the Town and Country Planning Act 1990 was also granted, reference 7/2022/5519, whereby the description of the development was amended. Whilst the latter is not a reissue of the original planning permission which still stands, the two decision notices should be read together. Therefore, in the banner heading above, the description of the development permitted is taken from that granted under the section 96A application.

Background and Main Issues

3. The planning permission for the barn conversion is subject to a condition (No 3) which restricts occupancy of the dwelling to a person with a local connection and that it be their 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 appellants object to the condition, considering that it is unduly restrictive. The appellant therefore seeks planning permission with a varied condition, which would allow for the dwelling to be occupied as either a permanent dwelling (but not a second home) or as a short-term holiday let.
4. Taking this into account the main issue is whether, the barn with planning permission for conversion would be suitable for local needs housing and, therefore, whether the existing condition is necessary and reasonable.

Reasons

5. Barkbooth Barn is located within the open countryside to the south-west of the village of Crosthwaite. The barn forms part of a small cluster of buildings which share an access drive from a road. This road provides access to towns and

villages in the area, including Kendal, via Crosthwaite, and Bowness, via Winster. To the north and on the same side of the access drive is a holiday let property known as the Egg House. To the north-east and on the opposite side of the access drive is the main house of Barkbooth which is set within a spacious plot with front and rear gardens whilst further garden land is located to the side of this house and east of Barkbooth Barn. To the south and west of the barn are fields.

6. Policy 2 of the Lake District National Park Local Plan 2020-2035 adopted 2021 (LP) establishes the spatial strategy for development within the National Park. Within the open countryside this policy provides support for the reuse of buildings for residential use subject to certain criteria including that it would be easily accessible to the existing road network and suitable access arrangements can be secured. Being located within the open countryside and part of a cluster of buildings only, I accept that the appeal site is not very conveniently located to access a range of services, transport or employment options. Crosthwaite, the nearest village, has a limited range of services whilst settlements with a greater array are further away. A heavy reliance upon private cars would be likely for permanent residents of Barkbooth Barn. It may also be the case that due to this location the development may not suit all potential occupants with a local connection.
7. However, there is no requirement as a part of the spatial strategy set out within Policy 2 of the LP that a building proposed for conversion within the countryside must, for example, be very closely situated to existing towns, villages or their services. Although the access drive to the site is quite lengthy, it is well surfaced, partly in gravel and partly in tarmac, and the road network beyond it would be easily accessible. I note the Highway Authority have raised no objections to the safety of the access arrangements, and I have no reason to disagree.
8. I accept that the short-term holiday letting could provide for some social and economic benefits and could complement the existing Egg House letting. Policy 18 of the LP acknowledges the contribution that tourism makes to the Lake District's economy whilst advice contained within the National Planning Policy Framework (the Framework), at paragraphs 81, 84 and 85, states that planning decisions should help create conditions in which businesses can expand, including through the conversion of existing buildings, and within areas beyond existing settlements.
9. However, Policies 15 and 18 of the LP together make it clear that the demand for not only second homes but also holiday let accommodation places pressure upon housing stock with the consequences including high prices and the displacement of local people. A balance should therefore be struck between the provision for tourists and those seeking housing. To appropriately strike this balance, Policy 15 supports new permanent housing, does not support open market housing, whilst Policy 18 states that short-term holiday lets will only be supported where, amongst other criteria, they would not utilise a building that is suitable for providing local need or affordable needs housing.
10. The property would be 2 storey and have 3 bedrooms. I note that for such a property Annex B of the Housing Supplementary Planning Document, 2021 (SPD) identifies a minimum gross internal floorspace of between 84m² and 102m², dependent upon occupancy. At 171m², the floorspace within the

proposed property would far exceed the SPD figures. Living space would include not only a lounge but also a snug and a separate playroom. I find that the internal accommodation to be provided would be both adequately sized and provide a flexible range of space. Each of the bedrooms, the kitchen, lounge, dining space, playroom and snug would be served by windows, with some served by more than one window, and this would maximise light entry. Therefore, the size and internal arrangement of the proposed property would be suitable for local needs housing.

11. The property would not have a large garden and I accept this may not be attractive to some potential occupiers. However, the property would have a dedicated seating terrace and further external space adjacent to this. These spaces would be to the west of the barn and therefore benefit from sunlight during the afternoon which would assist in making those areas more pleasant to be within and suitable for clothes drying purposes. Overall, the property would be served by an amount of external space which would adequately meet the needs of many prospective occupiers, including those with children and pets.
12. The proposed property would not have access to ancillary garaging or similar storage. Although the absence of such storage or garaging may place some restrictions upon future permanent occupiers, it alone does not make the accommodation unsuitable for local needs housing. Furthermore, some mitigation is provided by the proposed internal boot room and whilst I note that permitted development rights for extensions and outbuildings have been removed via the imposition of condition 7 of the planning permission, the Council have stated that such action was taken in the interests of maintaining control over such works within a sensitive landscape setting. It therefore does not follow that planning permission could not be obtained for a well-designed alteration to the property in the future. The removal of these permitted development rights would help to ensure that the potential for unsympathetic alterations to the building to take place, with which the appellant is concerned, would be minimised.
13. The majority of windows which would serve the property would be within the north-west elevation which flanks fields and the south-east elevation which is opposite an access track and garden land beyond. The Egg House is separated from the barn by a grassed area and hardstanding beyond. The gable ended side elevation of the Egg House is opposite the barn and contains only 2 windows at first floor and 1 window at ground floor whilst the facing north-east elevation of the barn is proposed to be served by only a single small window. The main house at Barkbooth is also set away from the barn to the north-east. Like the Egg House, the nearest elevation of that main house is a gable ended side elevation containing few windows.
14. I acknowledge that at times farm vehicles will pass-by on the access track into the fields beside the barn. However, I have very limited evidence before me that intensive agricultural practices take place close-by to the barn or that the number of passing vehicle movements would be very high.
15. Given this combination of factors adequate privacy and living conditions would be provided for the proposed occupiers of the barn.
16. I appreciate that the appellants and their relatives have been custodians of the existing cluster of buildings for many years and that the holiday let use would

permit a means for this to continue. However, it has not been shown to me that any particular harm would arise from the barn having a permanent local occupancy, a different ownership, or from the activities associated with the levels of occupancy that could be provided for within a 3 bedroomed local needs property.

17. The appellant has drawn my attention to other developments which they consider provide precedents for the appeal scheme. In the Hall Waberthwaite case, the National Park Authority concluded a barn proposed for conversion would not provide adequate living conditions for a permanent residential occupier. However, I note from the evidence before me that the barn sought for conversion in that case was situated close-by to the shared yard and access of a farming enterprise of 123ha of land and 430 head of cattle. I have no substantive evidence before me that farming activities of a similar scale occur at Barkbooth. In the Thornyfield case, I note that in accepting a holiday let, the distances to services, and the standard of garden and storage facilities were factors in the National Park Authority determining local needs housing was unsuitable in that case. However, unlike in the appeal scheme, the barn sought for conversion in that case was deemed to be a curtilage listed building in need of urgent works to prevent its deterioration. This matter was given weight by the National Park Authority. The appellant has also referenced cases at Haycote Barn and the Clockmakers Barn. However, very limited details of those two cases are before me and in such circumstances I cannot draw accurate comparisons between the details of those cases and the appeal scheme. For these reasons each of the cited developments differ from the appeal scheme and are not a strong influence in my decision.
18. The appellant has put to me that without the flexibility of the proposed varied condition the conversion would be unlikely to take place on viability grounds. Whilst I can accept that the greater flexibility may provide more favourable circumstances to redevelop the barn, the detail submitted in evidence to demonstrate that conversion to the local occupancy dwelling would be unlikely to come into fruition is very limited, and it has not been shown to me that it would be an unviable proposition nor that there would be no demand for it.
19. The appeal site is located within the Lake District World Heritage Site (WHS). The harmony of the dramatic landscape of mountains, lakes, valleys and woodland together with the development patterns of its farms and settlements which are historically derived and functionally determined, contribute positively to its significance. As a traditional barn, the appeal site is reflective of attributes which contribute to the significance of the WHS.
20. If I were to accept that the building is a non-designated heritage asset, the effect of a proposal upon the significance of the heritage asset should be taken into account. Furthermore, advice at paragraphs 197 and 206 of the Framework includes that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account whilst development that would preserve those elements of setting that make a positive contribution to a WHS, or which better reveal its significance, should be treated favourably. However, given my above findings on the viability demonstrations that have been made, it follows that I cannot accept that the variation to condition 3, so as to permit holiday letting, would be the only means to secure the long-term future of the Barkbooth Barn and, in turn, deliver a conversion scheme sympathetic to the host building, the National Park landscape and WHS.

21. The appellant has put to me that the conversion could only deliver a property for an occupier with substantial financial means. However, even if this were the case, the prioritising of permanent homes afforded by Policies 15 and 18 of the LP is not limited to affordable homes.
22. The appellant has put to me that the specific criteria contained within condition 3 of the planning permission which defines a person with a local connection are unreasonable or irrelevant for a range of reasons. However, I firstly note that the criteria contained within the condition reflects that set out at paragraph 3.5 of the SPD. I note that the SPD sets out that the criteria used to determine whether someone has a need to live in the locality has been established alongside the Local Housing Authorities and with regard to the Housing Act 1996 and the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012. I also note that the SPD was adopted as recently as May 2021. I have no substantive evidence before me that the local connection criteria within condition 3 is unacceptable nor that it requires amendment so as to meet the tests for conditions as set out at paragraph 56 of the Framework.
23. For the reasons detailed above, I find that Barkbooth Barn would be suitable for local needs housing. Condition 3 of the planning permission is reasonable and necessary and compliant with Policies 2, 15 and 18 of the LP.

Other Matters

24. Aside from the Parish Council, the proposal may not have received objections as a result of the National Park Authority's consultation exercises, but this limited level of objection does not in itself render the scheme appropriate nor overcome my concerns.
25. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act sets out the relevant protected characteristics which includes age. In dismissing this appeal, the use of Barkbooth Barn would be restricted for local occupancy purposes. The traditional nature of the building, local land levels and relatively small external area may mean that it would not suit some elderly residents or, conversely some families with smaller children. However, the proposal is providing an additional housing option, rather than reducing them and, accordingly, I find no harm would occur to those with protected characteristics.

Conclusion

26. For the reasons given above the appeal is dismissed.

H Jones

INSPECTOR