



Appeal Decision

Site visit made on 21 March 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/C9499/W/22/3308878

Lower Barn, High Fellside, Middleton, Carnforth LA6 2NF

- 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 Andrew Carter against the decision of Yorkshire Dales National Park Authority.
 - The application Ref S/11/21A, dated 1 March 2022, was refused by notice dated 26 April 2022.
 - The development proposed is the conversion of barn to dwelling for local occupancy or holiday let accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of barn to dwelling for local occupancy or holiday let accommodation at Lower Barn, High Fellside, Middleton, Carnforth LA6 2NF, in accordance with the terms of application Ref S/11/21A, dated 1 March 2022, subject to the conditions set out in a Schedule attached to this Decision.

Preliminary Matters

2. There is some dispute between the main parties as to the weight to be afforded to saved Policy H12 – ‘Conversion of buildings outside Development Boundaries’ of the South Lakeland Local Plan 2006 & Alterations [2007] (the SLLP) - first adopted in 1997 and updated in 2006. Part of the South Lakeland administrative area was incorporated into the extended Yorkshire Dales National Park (NP) in 2016. A subsequent statement by the Authority confirmed that the policy remains applicable in the NP area. This is until such a time it is superseded.
3. I recognise that South Lakeland District Council has since adopted Development Management Policies in March 2019. However, the policies within it are limited in application to those parts of the district outside of the NP. Although a new development plan for the NP is in preparation, this is at an early stage and therefore attracts negligible weight.
4. I also acknowledge that assessment of development within the NP will rely on legacy policies set out in various documents until such a time an area-wide development plan is adopted. This could lead to different approaches across different parts of the NP. However, this does not alter the requirement in s38(6) of the Planning and Compulsory Purchase Act 2004 to determine a planning application in accordance with the development plan unless material considerations indicate otherwise.

5. Accordingly, following the approach set out in Paragraph 219 of the National Planning Policy Framework (the Framework), Policy H12 is entitled to due weight according to its consistency with the Framework.
6. As the proposed conversion of the building would involve the provision of a full range of facilities to support day-to-day living, if permitted, it would result in a new dwelling. For the avoidance of doubt, as a scheme intended for use as either local needs housing or holiday accommodation, I have considered it on the basis of those restricted uses only.

Main Issues

7. The main issues are whether or not the location of the building would be suitable for the proposed uses and, if so, the effect of the building's use on the landscape setting and tranquillity of its surroundings.

Reasons

8. The appeal relates to a large traditional agricultural barn constructed with stone walls and a slate roof with stone flag edging. The redundant building is set on a rural hillside and is surrounded by enclosed grazing fields. Two residential properties lie to the northwest at the end of an access road from the A683.
9. Saved Policy H12 of the SLLP permits the conversion of buildings outside of allocated development boundaries subject to a number of qualifying criteria. There is no dispute between the main parties that the proposal would meet the majority of the requirements, however, the Authority refers me to the requirement for the building to be part of a group containing an existing dwelling (criteria (e)).
10. Although isolated from any recognised settlement area, the barn forms part of a loose group of buildings with the dwellings at High Fellside Hall and High View Barn. The separation from the dwellings straddling the shared access road is estimated at some 65-70m by the Authority. However, the distance to the nearest residential boundary is shorter. Viewed in the broad rural landscape context, the barn appears as part of the group with potential historic association by function, proximity and similar external materials. Its access also converges with that of High Fellside Hall. Accordingly, I find it would be consistent with criteria (e) in Policy H12.
11. The proposed curtilage, incorporating a walled parking area and small garden, would be restricted. This would be consistent with the requirement in paragraph (h) of the policy. However, the domestication of the land's appearance would not enhance the traditional barn's immediate setting. It would not therefore meet the requirement to an exception to isolated homes in the countryside as set out in Paragraph 80 c) of the Framework. In this regard, it would neither conserve or enhance the landscape and scenic beauty of the NP.
12. However, Paragraph 80 b) of the Framework supports development that would represent an optimal viable use of a heritage asset. The Authority's heritage advisor considers the building to date from the late C18 and have sufficient historic significance to classify it as a non-designated heritage asset (NDHA). As an aged barn of substantial scale and construction, and incorporating traditional features, I see little basis to disagree with that conclusion.

13. In support of the development the appellant asserts that the age and design of the barn and its restricted access would make it unsuitable for modern day agricultural purposes. Furthermore, its location and conversion costs would make it undesirable for occupation by other business users. This is not contested by the Authority.
14. Moreover, notwithstanding the substantial integrity of the barn, at the time of my site visit I saw evidence of areas of failing timbers and displaced stonework that, if allowed to deteriorate further, could lead to partial collapse or loss of historic building elements.
15. The proposed use of the building would provide a mechanism to secure its long-term upkeep and survival. This would prevent it from potentially deteriorating further. Subject to the balance of wider considerations associated with its siting in the NP, it would preserve a characteristic rural building that provides a positive contribution to the locality.
16. I acknowledge the Authority's concerns in relation to the potential effects of a designed ragged hole to the building's roof and the construction and the formation and use of a swimming pool at the lower level. However, these are matters that could be subject to agreement of the design detail. This could be secured by condition to provide the necessary protection to the building's long-term integrity and characteristic appearance.
17. The use of the redundant building and associated curtilage areas would inevitably lead to increased activity. In the vicinity, this could be observed from the roadway and the higher public right of way. Although limited in area and proposed to be enclosed by existing and new stone walls, the use of the outside domestic areas would have some potential for noisy activity. In use as holiday accommodation, the propensity would be greater as occupiers would be more transient and with lengthier opportunities to engage in relaxation and recreational activity focussed about the site.
18. Compared to the existing use, I find that the proposed uses would cause a greater effect on the tranquillity of the area. However, as a single unit of accommodation this effect would be limited.
19. Nevertheless, for the above reasons, I find the domestication of areas about the building would harm the character of the setting of the building and the special qualities and local distinctiveness of the wider valued landscape. Furthermore, the proposed uses would have an adverse effect on the tranquillity of the building's surroundings. Whilst those effects would be partially offset by the benefits of preserving the long-term future of the building, there would be minor conflicts with saved Policy S2 and H12 of the SLLP, Policies CS8.2 and CS8.10 of the South Lakeland Local Development Framework Core Strategy [2010] and the Framework as they seek to protect the character of the countryside and conserve and enhance the landscape and scenic beauty in National Parks.

Other Matters

20. In support of the proposals the appellant refers me to a number of benefits that would arise from it. It could provide an additional residential unit which could be secured for local occupancy. Utilising a windfall site and the re-use of an existing building, this would contribute to the housing need in the NP. It

could support the social and economic viability of communities living and working there.

21. The Authority advises that there is currently no policy justification for limiting the residential use of the building. Notwithstanding that this was the basis on which the planning application was submitted, I find that, weight to an occupancy restriction can be attributed in the context of a National Park area.
22. The English National Parks and the Broads: UK Government Vision and Circular 2010 remains valid guidance by reference in the revised Framework¹. It highlights that the National Parks are not suitable locations for unrestricted housing. Accordingly, I find a condition limiting the terms of occupancy would ensure that the scheme could respond to local housing need. As a local housing benefit, this would be entitled to weight in the appeal.
23. I acknowledge the Authority's preference to secure occupancy restrictions through an obligation made under s106 of the Planning Act 1990. However, as a matter which is capable of being restricted by condition, I do not consider this to be necessary in the case circumstances. Additionally, I note the Authority's concern that applying weight to the argument of restricted occupancy might set a precedent for building conversions elsewhere in the NP extension areas. However, precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations.
24. In the alternative, the use of the building as holiday accommodation would provide economic benefits associated with visitor spend and management of the site. The Circular also supports sustainable tourism in the interests of the 'long term protection and preservation of natural, cultural and social resources and contributes in a positive and equitable manner to the economic development and well-being of individuals living, working or staying in protected areas'. Subject to the requirement that the holiday accommodation is provided on a letting basis, and therefore not reserved as a second home such that it would undermine the level of economic benefits, (or the benefits associated with local occupancy), this would be an alternative benefit of the proposal.
25. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on me to have regard to the likelihood of European Protected Species being present and affected by the proposed development. The appellant's assessment of the building shows some limited use by bats and owls. However, in incorporating existing crevice features and/or bat boxes, and retaining an existing owl hole/shelf, protected species would unlikely be affected at the population level. Subject to those mitigation requirements, which could be secured by condition, I find there would be no material impact on protected species.

Planning Balance

26. Taking all of the above together, whilst I have found that the proposal would lead to limited adverse effects on the character of the building's setting, the protected landscape and tranquillity of the locality, I find the totality of the benefits arising from securing the long term future of a valued building and

¹ Paragraph 176 and Footnote 59 of the Framework

those associated with meeting a local housing need, or the economic benefits of the use of the building as holiday accommodation, would, in the particular circumstances of the case, outweigh the identified harm. It would comply with the development plan and the Framework when read as a whole.

27. Furthermore, I find that as the balance of benefits is reliant on the restriction of occupancy to secure the weight of those benefits, a condition requiring it would meet the tests in Paragraph 56 of the Framework.

Conditions

28. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. Some have been edited for precision and I have reordered them to reflect their stage of application.
29. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
30. To secure the heritage benefits of the building's retention as a characteristic rural building, requirements for its conversion in accordance with specified external detailing is reasonable and necessary. Moreover, in the circumstances of its location in a National Park, there is a clear justification for removal of permitted development rights. Where evidence of contamination is identified, remediation is required to secure a safe form of development.
31. To protect and enhance biodiversity, conditions requiring mitigation and enhancement of nesting/roosting opportunities for bats and barn owls are reasonable. To secure the balance of benefits of the development and to outweigh a conflict with the development plan, a condition limiting the occupancy of the building to persons with a local connection or as short-term holiday let accommodation is reasonable and necessary.

Conclusion

32. For the above reasons, the appeal should be allowed.

R Hitchcock

INSPECTOR

Schedule of Conditions to Planning Permission Ref. S/11/21A

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Location Plan 014/P/001 Rev C; Proposed Site Plan 014/P/010 Rev C; Proposed ground floor plan 014/P/011 Rev A; Proposed first floor plan 014/P/12 Rev B; Proposed roof plan 014/P/13 Rev B; Proposed sections 014/P/014 Rev B; Proposed elevations 014/P/15 Rev A; Proposed elevations 014/P/16 Rev B; and Proposed Window Details 014/P/17; Application form; Design and access statement; Structural report Ref 21-822 by Rydal Engineering dated 30/06/2021; Ecological appraisal for bats and barn owls by Carr Ecology.

3) Notwithstanding the detail shown on the approved plans the development shall be carried out in accordance with the following design details and retained as such thereafter:

i) the window and door frames shall be made from timber or aluminium and recessed back from the external face of the wall by a minimum of 200mm;

ii) all external window frames and doors shall be painted/finished the colour black (RAL 9004);

iii) rainwater goods shall be coloured black aluminium or cast iron and fixed directly to the masonry of the building using rise and fall brackets;

iv) all architectural features of the building existing at the date of this notice shall be retained in situ unless otherwise indicated on the approved plans;

v) pointing or re-pointing of any external elevation shall be with a lime mortar mix to match in colour and appearance to that existing on the building at the date of this notice;

vi) prior to the erection of any external lighting its details shall be submitted to and approved in writing by the Local Planning Authority;

vii) the rooflights to be used shall be of the 'conservation' type and shall be fitted flush with the adjoining roof surface and shall not project above the plane of the roof;

viii) prior to installation, full details of any proposed extraction and ventilation, including their position and external appearance, shall be submitted to and approved in writing by the Local Planning Authority;

ix) the external masonry shall not be sand or shot blasted, pressure cleaned or otherwise treated to remove, cover, paint or render the surface layer of the masonry such that the surface of the masonry retains its weathered appearance existing prior to works to convert the building;

x) the existing natural roofing stone and slates of the building shall be retained as the exterior roof covering of the building where practicable. Any additional stone or slates required shall be reclaimed natural stone or slate of the same kind, dimensions and colour as those on the existing building at the date of this notice; and,

xi) the final option for the roof opening indicated on the drawings Options for Rear Roof Opening 014/P/18 and 014/P/19 shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved and be retained thereafter.

The building shall be completed and maintained only in accordance with the above requirements and agreed details for the duration of the development.

4) No part of the building shall be demolished and/or rebuilt other than in strict accordance with the details contained within the approved plans/documents. Should any demolition and/or rebuilding be necessary to facilitate the development hereby approved, the details shall first be submitted to and approved in writing by the Local Planning Authority. Subsequent demolition and/or rebuilding shall be completed in accordance with the approved details.

5) Should any unexpected significant contamination be encountered during the course of construction of the approved development, it shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the relevant part of the development is resumed or continued.

6) The conversion works shall be carried out strictly in accordance with the Mitigation Measures contained within Section 5.8 of the Ecological Appraisal for Bats and Barn Owls at Lower Barn, Middleton by Carr Ecology, dated 6 October 2021 and received by the local planning authority on 22 March 2022.

7) The existing barn owl hole and shelf on the southern gable should be retained and separated from the proposed living area of the converted barn by retaining the opening and fitting a divider. If this is not possible one barn owl habitat box (nest box) shall be attached to the external elevation of the southern gable end within 6 months of the first occupation of the development hereby approved and retained thereafter.

8) Within 6 months of the first use of the development hereby permitted 2 x bat/bird boxes shall have been installed on the building or within the site. The bat/bird boxes shall be retained as such thereafter, unless details of alternative biodiversity enhancement measures are first submitted to and agreed in writing by the Local Planning Authority.

9) The dwellinghouse hereby permitted shall not be occupied otherwise than either:

A) 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.

Or,

B) as holiday accommodation for short-let holiday use only; except in accordance with Local Connection Occupancy as described in A) above, the building shall not be occupied by any one person for a period exceeding 28 days in any calendar year. The owner shall maintain a register of occupants for each calendar year which shall be made available for inspection by the National Park Authority on request.

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) Existing residents (being persons who have resided permanently in the National Park for the preceding three years) of the National Park establishing a separate household, purchasing a property for the first time, downsizing to a more manageable home or requiring more space for a growing family; or
- (2) A head of household who is or whose partner is in or is taking up full-time permanent employment or self-employment, within the National Park (or in another part of a parish split by the National Park boundary). Where a person is employed in a business that operates in multiple locations, their employment activities should take place predominantly inside the National Park; or
- (3) A household that has a child at a school within the National Park; or
- (4) Householders currently living permanently (being persons who have resided permanently in the National Park for the preceding three years) in a dwelling which is either shared but not self-contained, overcrowded, or is otherwise unsatisfactory by environmental health standards and which is within the National Park (or in another part of a parish split by the National Park boundary); or
- (5) Elderly or disabled persons requiring sheltered or otherwise more suitable accommodation who already live permanently (being persons who have resided permanently in the National Park for the preceding three years) within the National Park (or in another part of a parish split by the National Park boundary); or
- (6) Persons (who have resided permanently in the National Park for the preceding three years) having to leave tied accommodation within the National Park (or in another part of a parish split by the National Park boundary); or
- (7) Former residents of the National Park (or of another part of a parish split by the National Park boundary) whose case is accepted in writing by the Authority as having a need to return to the National Park and where the resident in question has resided in the National Park for a minimum of 10 years.

10) Notwithstanding the provisions of Classes A, B, C, D, E, F, G & H of Part 1, Classes A, B, C of Part 2 and Classes A, B, C, D, E, F & G of Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking, re-enacting or modifying that Order, no development of the description in these Classes shall be carried out on the site except in accordance with a planning permission granted by the Local Planning Authority.

END.