



Appeal Decisions

Site visit made on 4 September 2023

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Levelling Up Housing and Communities

Decision date: 18 September 2023

Appeal Refs: APP/Q9495/C/22/3309176 & 3309177

Bowmanstead Studio, Bowmanstead, Coniston, Cumbria LA21 8HB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Robert Reeves and Mrs Jaqueline Fiona Reeves against an enforcement notice issued by the Lake District National Park Authority (LDNPA).
 - The enforcement notice (EN) was issued on 21 September 2022.
 - The breach of planning control as alleged in the notice is as follows:
The making of a material change of use of the Land from use as a dwellinghouse with ancillary accommodation to use as two separate dwellinghouses.
 - The requirements of the notice are as follows:
 - i. Cease the use of the Land otherwise than as a single dwellinghouse.
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on grounds (a) and (f) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. The appeals are allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Matter of clarification

2. The allegation as set out in the notice refers to an unauthorised change of use of the whole of the property from use as a single dwellinghouse to use as two separate dwellinghouses. However, what has occurred is a change of use from a single dwellinghouse to a dwellinghouse and a separate residential unit currently being used to provide short-term holiday letting dwelling. This second unit benefitted from planning permission (PP) and listed building consent (LBC) for the conversion of part of the property to ancillary accommodation of the main house as an annex and provides all of the necessary facilities of a dwellinghouse.

3. It is clear from the appellants' submissions that, in pleading ground (a), they are seeking planning permission to use the former annex as a separate holiday let unit. I have, therefore considered the appeals on this basis, as opposed to considering whether or not planning permission should be granted for a completely separate dwellinghouse with a separate curtilage. I therefore consider it necessary to correct the notice to reflect this more accurate description of the unauthorised change of use. In dealing with the appeals in this manner I am satisfied that no injustice will be caused to either the LDNPA or the appellants.

Background information

4. The Grade II listed appeal property is located approximately half a mile to the south of the centre of Coniston, which is identified as a Rural Service Centre (RSC) in

the Lake District National Park Local Plan (LDNPLP). It is close to other residential properties and a public house. The western section of the property, the annex, is currently used as a separate self-contained holiday let unit and is advertised and marketed as such.

5. PP and LBC were granted in 2018 for '*internal alterations; demolition of flat roof dormer and construction of new dormer; repair, replacement and addition of doors and windows; re-plumbing and re-wiring of entire property*' (LDNPA references 7/2018/5033 and 7/2018/5034). The approved plans showed the self-contained unit, the annex, which included a kitchen, living room, a bathroom, and bedroom.

6. The Heritage Statement submitted with the applications stated:

'The former barn to the west of the range of Bowmanstead Studio has already been 75% converted. Again, this conversion is fairly modern, and the changes proposed to make this ancillary accommodation for the applicant to use and also for family members to use when visiting is limited. The main external alteration will be the addition of the patio doors. It is felt this is necessary to give a better link between the inside and the outside spaces and so that those using the ancillary accommodation would have access into the garden'.

7. The appellants had also referred to a planning application being made in 2014 to convert the house and detached barn into five separate holiday-letting units. The LDNPA states that it has no record of receiving the application. However, it accepts that there had been two '*pre-application enquiries*' in 2015. The first related to the conversion of the property into two apartments and two holiday lets and the second to conversion into a 4/5-bedroom guest house; conversion of a studio into a flat for an elderly relative; and conversion of the barn to auxiliary accommodation.

8. The LDNPA had replied to the first enquiry referring, amongst other things, to the listed status of the property; the requirement for consents; and relevant housing policy in this RSC. It indicates that holiday-let accommodation would normally only be allowed in exceptional circumstances. These included farm diversification, extension of existing hotel facilities or where the facilities were not suitable as separate accommodation.

9. The LDNPA now stresses that this part of the building is no longer being used as an ancillary annex to the property and that, instead, it is being advertised and used as a separate self-contained dwelling providing short-term holiday-letting accommodation. From the on-line reviews, it would appear that the alleged unlawful change of use commenced around August 2021.

The appeals on ground (a)

Relevant Policy

10. The most relevant development plan policies are policies 01 (National and international significance of the Lake District); 02 (Spatial strategy); 15 (Housing); and 18 (Sustainable tourism and holiday accommodation) of the LDNPLP 2021. The Lake District National Park Housing Supplementary Planning Document (Housing SPD) is also relevant as a major material consideration as is the National Planning Policy Framework (NPPF) .

The Main Issue

11. The effect of a holiday let use in this particular location having regard to the relevant policies relating to housing and sustainable tourism and holiday letting accommodation in this part of the National Park.

Introduction

12. As referred to above the appellants wish to use the annex for use as a holiday let. The LDNPA does not accept that this is an acceptable tourism development but accepts that in principle and subject to PP and LBC, it could be suitable for providing local need or affordable housing in accordance with Policy 15 of the LDNPLP.

13. Turning to the holiday let use, Policy 18 of the LDNPLP supports new sustainable tourism developments. In doing so it aims to locate development in places which offer a choice of transport options for visitors and employees. The policy only supports proposals where they are within, or well-related to the settlement form of an RSC; where they contribute to the diversification of an agricultural or land-based rural business or upon a geographically fixed resource which justifies the development; or are located within or adjacent to an existing visitor attraction or accommodation site.

14. In addition the policy indicates that the LDNPA will only support proposals for the reuse of existing buildings (excluding guest houses) for short term holiday letting where they would: not utilise a building that is suitable for providing local need or affordable needs housing; not utilise a building which is suitable for providing employment use; or form part of an agricultural or land-based rural business diversification proposal.

15. The LPA stresses that the approach to Policy 18 is consistent with Policy 15 (Housing), which aims 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 people's needs and maximises the delivery of affordable housing. The housing policy covers all new housing proposals including the conversion of traditional buildings. The LDNPA's Housing Supplementary Planning Document (HSPD) supports the policy. As referred to above, the LDNPA contends that the annex may be suitable for providing local needs or affordable needs housing.

My assessment

16. Turning first to Policy 18 and having visited the property and the surrounding area, I consider that it is well-related to the Coniston RSC. It is within a short walking distance of the centre of Coniston, close to a public house and close to other dwellings. In this respect I consider that it is ideally located for use as a tourism development. Furthermore, albeit in reference to a local housing need, the LDNPA acknowledges that the property lies in close proximity to the centre of Coniston and accepts that it is in a sustainable location.

17. The fact that part of the Bowmanstead property is in use as an Artist's Studio reinforces my view that a holiday let use in this location is acceptable. Although customers do not currently visit the studio, it nevertheless operates as a rural Artist's business which is advertised as such by one of the appellants. I also consider that the holiday let use will assist in ensuring a continued viable use of the overall listed building at Bowmanstead, following the recognised improvements carried out by the appellants.

18. There may not be a choice of transport options for visitors to the property but the short distance to the centre and the current situation at busy times regarding parking (including charges), suggests to me that most visitors would be most likely to leave their vehicle at the Studio building, (where there is a designated parking space and an ability to turn) and walk to the other facilities provided in and around the town. To this end there is an off-road pathway along part of the road and a normal pavement beyond. In addition, there is a route down to the lake and along

the lakeside into the centre of Coniston. In summary, therefore, on balance I consider that a holiday let use of this small annex accords with Policy 18 of the LDNPLP and is sustainable.

19. Regarding Policy 15, I acknowledge that in the whole of the LDNP there is a clear need 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 people's needs and maximises the delivery of affordable housing. However, I question whether this particular property, in this specific location, would be ideally suited for use as a completely separate dwellinghouse to contribute to these needs.

20. Like the LDNPA, I agree that some of the appellants' reasons for not wanting a separate new dwelling (suitable for local need or affordable needs housing) are not material planning considerations. Irrespective of who occupies the annex, whether as a holiday let or a separate local need dwelling, maltreatment of the property could occur. It is also the case that any potential harassment regarding parking could equally be relevant to any user of the unit.

21. Permanent residents could affect the amenity of the appellants but again, so too might temporary residents. However, the annex accommodation is immediately adjacent to the main dwelling and in my view as a separate dwelling it would be perceived as being cramped in comparison with the main house. The limited space around the properties; the accesses both front and rear and the parking issues would, in my view, result in two separate dwellings/households having a negative effect on each other and that living conditions could be compromised for the separate occupiers.

22. As a result, in my view a second dwelling in a separate use would have a detrimental effect on the living conditions of the occupiers of both properties. I also consider that the setting of the listed building would be harmed and thus, I disagree with the LDNP in this respect. The garden currently adds most positively to the character and appearance of the listed building. Whilst accepting that PP and LBC would be required for any such change of use, I consider that the results of separate ownership, such as new curtilages, boundaries, walls or fences, separate gardens plus the residential paraphernalia of two adjacent dwellings, would detract markedly from the overall character and appearance of the listed building and its architectural and historic features.

23. In conclusion, therefore and for the above reasons I do not consider that the use of the annex as short-term holiday let accommodation would be contrary to the development plan and the appeals succeed on ground (a). Planning permission will be granted and the enforcement notice will be quashed.

24. It follows that the appeals on ground (f) do not need to be considered.

Other Matters

25. In reaching my conclusions I have taken into account all other matters raised by the appellants, by interested persons including the landowner and those owning the adjacent cottage. These matters include the full planning history of the property and the neighbouring cottage; the full appeal statements; the LDNPA Officer Report; the submitted plans and photographs and the references to the various disputes and disagreements with adjoining owners.

26. However none of these carries sufficient weight to alter my conclusion that the appeals should succeed on ground (a) and that planning permission should be granted for the short-term holiday accommodation in this particular location at

Bowmanstead Studio. Neither is any other factor of such significance so as to change my decision.

Formal Decision

27. It is directed that the enforcement notice is corrected by deleting the allegation as drafted and by replacing it with the following: *'The making of a material change of use of the land from use as a single dwellinghouse with ancillary accommodation to use as a dwellinghouse and a holiday let dwelling'*.

28. Subject to the correction the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely: *change of use of the land from use as a dwellinghouse with ancillary accommodation to use as a dwellinghouse and a holiday let dwelling'* at Bowmanstead Studio, Bowmanstead, Coniston, Cumbria LA21 8HB, as shown on the plan attached to the notice and drawing No 2A subject to the following condition:

1. The dwelling hereby permitted, as shown outlined in red on drawing No 2A, shall only be used as short-term holiday accommodation and shall not be used for any other purpose.

Anthony J Wharton

Inspector