
Appeal Decisions

Site visit made on 18 November 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 08 December 2025

Appeal Ref: APP/Q9495/C/24/3354443 & 3354444

Land at How Farm, The Howe, Mosser, Cockermouth CA13 0RA

- 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 Mrs Hazel Robinson and Mr Michael Robinson against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 7 November 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from use as two dwellings (How Farm and The Barn) to use as three separate dwellings (How Farm, The Barn and The End).
 - The requirements of the notice are:
 - (i) Discontinue the use of the Land otherwise than as two dwellings.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: the appeals are allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Procedural Matters

1. The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from use as two dwellings (How Farm and The Barn) to use as three separate dwellings (How Farm, The Barn and The End). Nothing more, nothing less. Similarly, the requirement set out in paragraph 5 of the notice is simply to discontinue the use of the Land otherwise than as two dwellings.
2. The notice therefore does not distinguish the purposes for which the dwelling is occupied: for example, the notice makes no reference to the use of the dwelling known as The End for short-term holiday lets. Nevertheless, in a letter dated 10 September 2024 the Authority indicate that use as accommodation for a local occupancy home could be favourable. Furthermore, the reason for issue the notice is predicated on the dwelling being suitable for and capable of meeting a local housing need.
3. Section 177(5) of the Town and Country Planning Act 1990 (the 1990 Act) provides that where an appeal against an enforcement notice is brought under section 174 of that Act, the appellant shall be deemed to have made an application for planning permission in respect of *the matters stated in the enforcement notice as constituting a breach of planning control* (emphasis added). In this case, this includes all the purposes to which a dwelling could be used including, but not limited to, use as short-term holiday lets.

4. Consequently, whilst I am mindful of the Authority's stated position, I have approached this appeal on the basis that I am considering the use of the appeal property as a dwelling in all its guises. In that context, it is settled case law that the distinctive characteristic of a dwellinghouse is its ability to afford to those who used it the facilities required for day-to-day private domestic existence.

The appeal on ground (a) and the deemed planning application

5. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the enforcement notice from which the main issue raised is whether the dwelling that has been created is suitable for and capable of meeting a local housing need.
6. There is no dispute that the appeal property provides all the facilities required for day-to-day private domestic existence in terms of cooking and bathing facilities and living space. The dispute is whether the accommodation provided accords with the standards set out in the Technical Housing Standards – nationally described space standards, published by the Department for Communities and Local Government in March 2015 (Technical Housing Standards)¹.
7. The first point to note is the terminology used in the Technical Housing Standards. The first sentence of paragraph 1 makes it clear that the standards relate to *new* dwellings and are suitable for application *across all tenures* (emphasis added). The Technical Housing Standards do not differentiate between newly built dwellings and dwellings created through the conversion/ subdivision of an existing dwelling.
8. The standards in the Technical Housing Standards are expressed both as minimums and as requirements. The Oxford English Dictionary defines the term 'minimum' as the least or smallest amount or quantity possible, attainable or required, and defines 'requirements' as something that is needed or compulsory. On my reading, the above can only mean that the standards are applicable to short-term holiday lets created by the subdivision of an existing dwelling².
9. The Technical Housing Standards are not primary legislation. Neither are they a Statutory Instrument or a planning policy contained in a development plan. They should be read in that context. Nevertheless, the words in the Technical Housing Standards must be given their meaning in natural and ordinary language. That said, it seems to me that a different approach is justified where the dwelling is not occupied on a permanent basis.
10. Where the dwelling is occupied as short-term holiday lets, the occupiers are likely to spend less time in the dwelling and the majority of the time exploring the local area, perhaps only returning to the accommodation for meals and for sleeping. In that scenario, assuming that the accommodation provides all the facilities required for day-to-day domestic

¹ The standards set out in the Technical Housing Standards are incorporated onto the Authority's Housing Supplementary Document and in the Lake District Design Code, both adopted in September 2023.

² There is no specific exemption for short-term holiday lets in the Technical Housing Standards.

existence, the standards in the Technical Housing Standards can and should be applied more flexibly.

11. With that firmly in mind, for a one-bedroom, two-storey dwelling the Technical Housing Standards require a minimum Gross Internal Area (GIA) of 58m² plus 1.5m² built-in storage. The GIA of The End is 61.2m² including built-in storage. However, the requirement at paragraph 10(i) of the Technical Housing Standards is that the minimum floor to ceiling height is 2.3m for at least 75% of the GIA. It is common ground between the parties that the accommodation at The End does not accord with the requirement at paragraph 10(i) of the Technical Housing Standards.
12. The Authority takes the view that a home that falls short of the standards set out in the Technical Housing Standards does not automatically result in the dwelling being unsuitable to meet a local need for housing. The Authority points out that the dwelling at The End is the result of a conversion rather than a new build and takes the view that it is more important to consider if the property provides satisfactory living accommodation.
13. In support of that position, the Authority refers to an appeal decision in relation to a property known as Headquarters, Blencathra Street, Keswick (APP/Q9495/W/23/3333130). In dismissing the appeal, the Inspector noted that the GIA fell short of the minimum GIA required by the Housing SPD but found that the accommodation nevertheless provided a pleasant living environment, with a comfortable and functional layout that was fit for purpose for permanent accommodation. This led the Inspector to the view that the appeal property would be suitable for local need housing and therefore the conversion of the property to short-term holiday lets was contrary to policies in the development plan.
14. I note that the Inspector in that case applied the minimum GIA standard set out in the Housing SPD (and therefore the Technical Housing Standards) to a proposal for the conversion of the property into a dwelling to be used for short-term lets. This reinforces my view that the Technical Housing Standards do not only apply to the new-build dwellings but also apply to the conversion of existing buildings.
15. Where I depart from the Inspector in that case is in the application of the minimum GIA standards in the Technical Housing Standards. In relation to permanent housing, I take the view that the minimum GIA standards in the Technical Housing Standards should be rigidly applied in order to achieve an acceptable level of amenity for the occupiers. However, for the reasons set out above, I perceive that the standards in the Technical Housing Standards should be applied in a more flexible manner when it comes to short-term holiday lets.
16. For that reason, I do not consider that the dwelling known as The End is suitable for and capable of meeting a local housing need because it does not meet the minimum GIA standards in the Technical Housing Standards. But that does not automatically mean that the appeal should be allowed and planning permission granted for use of The End for short-term holiday lets. It is necessary to look beyond the minimum GIA standards in the

Technical Housing Standards and focus upon how the accommodation would actually be used in practice.

17. The End provides a kitchen with dining space, a lounge, a bathroom and a double bedroom. The accommodation therefore provides all the facilities required for day-to-day domestic existence. I noted at my site visit that the rooms are not unduly small, provide natural light and have a pleasant outlook albeit the low ceiling height in the main living area gives that space a somewhat claustrophobic feel. The Authority recognises that the layout of The End is well designed and provides a comfortable living space. In my view, notwithstanding the shortfall against the minimum GIA standards in the Technical Housing Standards, the accommodation provided at The End is eminently suitable for short-term holiday lets.
18. Policy 18 of the of the Lake District National Park Local Plan (Local Plan) only supports proposals for the reuse of existing buildings for short term holiday letting where they would not utilise a building that is suitable for providing local need housing. I conclude that the dwelling that has been created is not suitable for and capable of meeting a local housing need (or, for that matter, for any form of permanent housing) but is suitable for use as short-term holiday lets. I therefore find no conflict with Policy 18 of the Local Plan.

Other considerations

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the use of The End as short-term holiday lets accords with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
20. The dismissal of this appeal would result in the number of dwellings at The Howe reverting to two. I understand that the dwelling known as How Farm is used by the appellants as their primary residence and is therefore permanently occupied. I also understand that the dwelling known as The Barn is used as short-term holiday lets, the Authority being satisfied that this use has now become immune from enforcement action through the passage of time.
21. Complying with the requirements of the notice would leave the appellants with no option other than to amalgamate the accommodation at The End into How Farm. Whilst this would provide a solution to some of the problems that the appellants refer to (in terms of mutual overlooking, for example), it would actually reduce the net stock of dwellings in the National Park. Policy 15 of the Local Plan aims to achieve a balanced and resilient housing market and a supply of new homes that meet people's needs. Given that The End is not suitable for providing local need housing or permanent housing of any description, I find that the use of the appeal property for short-term holiday lets does not conflict with Policy 15 of the Local Plan.

22. The Authority has provided draft conditions in the event that I am minded to grant planning permission for the use of The End as short-term holiday lets. A condition is necessary to ensure that the property shall only be occupied for the purposes of short-term holiday letting and cannot be occupied permanently. A condition is also necessary to ensure that the two ground floor windows in the south elevation of the building are fitted with obscure glazing, such glazing to be permanently retained thereafter. I shall impose the suggested conditions, albeit with some slight alterations to the suggested wording to ensure that they fully accord with the tests set out in Planning Practice Guidance.
23. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. I therefore conclude that planning permission ought to be granted in respect of the breach of planning control constituted by the matters stated in the notice, subject to conditions.

Conclusion

24. For the reasons given above, I conclude that the appeals succeed on ground (a). I shall grant planning permission for the use as described in the notice. In these circumstances, the appeals on ground (g) do not fall to be considered.

Formal Decision

25. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of the Land as three separate dwellings (known as How Farm, The Barn and The End) as shown on the plan attached to the notice and subject to the following conditions:

1/ The accommodation at the property known as The End hereby permitted shall only be occupied for the purposes of short-term holiday letting, and shall not be occupied by any one individual, family or group for a period exceeding 35 days in any calendar year.

2/ A register of occupants of the property known as The End, showing the start and end dates of their stay at the property, shall be maintained by the owner, the content of which shall be provided to the Local Planning Authority within 14 days of a written request by the Local Planning Authority.

3/ Within three months of the date of this permission the two ground floor windows in the south elevation of the building known as The End shall be glazed with obscure glass in accordance with details to be approved in writing by the Local Planning Authority. The approved glazing shall thereafter be retained in accordance with the approved details and the windows so fitted shall be permanently fixed shut.

Paul Freer
INSPECTOR