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# Appeal Decision

Site visit made on 27 June 2017

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

**Decision date: 20<sup>th</sup> July 2017**

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**Appeal Ref: APP/T9501/W/17/3170021**

**Beeswing Lodge, Elsdon, Newcastle upon Tyne NE19 1AP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mrs Mary Carruthers against the decision of Northumberland National Park Authority.
  - The application Ref 16NP0077, dated 28 July 2016, was refused by notice dated 15 September 2016.
  - The application sought planning permission for conversion of redundant farm building to form holiday cottage without complying with a condition attached to planning permission Ref 92/A/387, dated 11 December 1992.
  - The condition in dispute is No 4 which states that: "*The permission hereby granted is for the purpose of the provision of holiday accommodation only and the unit shall not be occupied for any purpose for a period of four weeks from 14 January in any year.*"
  - The reason given for the condition is: "*In order to prevent the units being occupied as permanent dwellings.*"
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Planning permission for the conversion of a redundant farm building to a holiday cottage at the appeal site was granted in December 1992. The permission was originally given reference 92/A/387, though the parties have used the reference NP920011. The Authority has confirmed that both references relate to the same permission. The two references are due to a change in the numbering system upon the Authority's establishment as the local planning authority.
3. Condition 4 of the permission requires that the property is used only as holiday accommodation. The building has been used as holiday accommodation up until December 2015. Thereafter it has been used as permanent residential accommodation. The application subject to this appeal sought to remove Condition 4 to allow the occupation of the property on a permanent basis.

## Main Issue

4. The main issue is whether the removal of the condition would result in a satisfactory form of development having regard to the relevant development plan policies and the principles of sustainable development.

## Reasons

5. The appeal relates to a former agricultural barn which has previously been converted to holiday accommodation. It is proposed to remove a planning condition that currently restricts the use of the building to holiday accommodation. Removing the condition would allow its continued use as unrestricted residential accommodation.
6. The appeal site benefits from an existing lawful use under Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The Authority does not dispute this. Thus, the proposal does not involve a change of use. Nevertheless, the disputed condition was considered necessary as unfettered occupation of the property as a permanent residence would have been in conflict with the development plan at the time. Consideration must therefore turn to whether the removal of the condition will accord with the development plan which is in place at the time of my decision.
7. The appeal site lies in the open countryside, outside of any settlements which are listed as the focus for development within the National Park under Policy 5 of the Northumberland National Park Authority Local Development Framework Core Strategy and Development Policies 2009 (CS). Although not set out in the Authority's decision notice, reference was made to CS Policy 5 within its report to committee and appeal statement. Paragraph 6.21 of the supporting text to Policy 5 is clear that the purpose of this approach is to protect the special qualities of the National Park as it will ensure the majority of development is focussed in areas which are suitable and which will help maintain existing services in those areas.
8. CS Policy 7 makes clear that, for the change of use of buildings outside of identified settlements, any building to be converted must: be capable of conversion; contribute to the special qualities of the National Park; and, be of sufficient size to accommodate the proposed use without the need for significant alterations or extensions which would detract from its character and appearance.
9. The change of use of existing buildings to employment use (including tourism) is supported by CS Policy 7 where all of the above criteria can be met. However, the change of use to new open market residential development is only supported by CS Policy 7 where the above criteria can be met, and where it can be demonstrated that the building cannot be developed for an employment or tourism use.
10. Paragraph 6.23 of the supporting text states that such demonstration will require evidence that the property has been advertised locally and regionally on the open market at least 3 times over a 9 month period, at roughly equal intervals over that time, at a realistic price which reflects its value as an employment enterprise and that no reasonable offer has been refused.
11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal is determined in accordance with the statutory development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is one such consideration.
12. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing development plans according to their degree of

- consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
13. I note that CS Policy 7 is more prescriptive than the Framework in that there is no requirement in the Framework to demonstrate a lack of employment or tourism demand prior to allowing residential use of existing buildings. However, a policy is not necessarily inconsistent simply because it adopts a particular approach which is not specifically referred to in the Framework. CS Policy 7 seeks to ensure that residential conversions contribute to the special qualities of the National Park and do not detract from its character and appearance. This is consistent with paragraph 115 of the Framework which states that great weight should be given to conserving landscape and scenic beauty in National Parks. CS Policy 7 also seeks to ensure that the spatial objectives of CS Policy 5 are achieved. Those objectives are also consistent with the approach of paragraph 115 and with the approach of paragraph 55 of the Framework to locate housing where it will enhance or maintain existing communities. As a result, I find both CS Policy 7 and CS Policy 5 consistent with the Framework. They are not, therefore, out-of-date and the presumption in favour of sustainable development as set out in the 4<sup>th</sup> bullet point of Framework paragraph 14 is not engaged in this instance.
  14. The appellant indicates that holiday bookings of the property have sharply dropped in recent years. Information presented to the Authority during consideration of the application indicates that occupancy levels for the accommodation had reduced from 27 weeks of the year in 2012 to 13 weeks in 2015. Nevertheless, it was also indicated that promotion of the holiday let was largely limited to word of mouth.
  15. Moreover, whilst it is indicated that the holiday use is no longer financially viable, it is suggested that bookings have declined, in part, due to increasing costs and difficulties in the upkeep of the property which are largely related to the personal circumstances of the appellant. No evidence has been provided to demonstrate that the property has been marketed for sale as a holiday let. Thus, there is no evidence that the holiday let would not be financially viable under different ownership. Nor is there any evidence that the property cannot be developed for an employment or other tourism related use. Consequently, the requirements of CS Policy 7 have not been satisfied.
  16. Paragraph 55 of the Framework seeks to locate housing in rural areas where it will enhance or maintain the vitality of rural communities. It states that new isolated homes in the countryside should be avoided, unless there are special circumstances such as, inter alia, where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or, where development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
  17. The appellant considers the property, as a former farm building constructed of stone, to be a heritage asset. However, the property is not a World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area. It is not, therefore, a designated heritage asset for the purposes of the Framework. Paragraph 135 of the Framework does require that the effect of a development on the significance of a non-designated heritage asset should be taken into

account. However, the building is clearly one of its time and place. There is little about the building physically which is particularly distinctive and there is no evidence that the building exhibits any particular historical interest or importance. Indeed, the Authority indicates that it is not identified on its Historic Buildings Survey. Consequently, I find there to be insufficient significance to consider the property as a non-designated heritage asset. The requirements of paragraph 135 of the Framework are not therefore relevant. In that event, the unfettered use of the property does not represent the optimal viable use of a heritage asset, in line with paragraph 55.

18. In addition, in the absence of adequate demonstration that the property can no longer function as a holiday let, or indeed any other tourism or employment related use, I find the proposal will not re-use redundant or disused buildings and lead to an enhancement to the immediate setting. As a result, it will represent an isolated new home in the countryside without meeting any special circumstances, in conflict with paragraph 55 of the Framework.
19. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. The presumption is set out in paragraph 14 of the Framework and, for the reasons set out above, the titled balance within that presumption is not relevant here.
20. Nevertheless, the residential use does have some benefits in that it allows the property to be occupied full-time. I also note there will be no harmful effect on the character and appearance of the area, the highway network, neighbouring living conditions or rights of way, though these are neutral effects rather than benefits.
21. However, the spatial approach to new housing set out in CS Policy 5 is designed to ensure that isolated new homes are not spread throughout the National Park. As such, the unfettered use of the property will impact upon the special qualities of the National Park to an extent, albeit it that impact will be limited given the lack of physical change to the property.
22. Moreover, the appeal site is not readily accessible by transport methods other than private car, in conflict with paragraph 29 of the Framework which states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It will also result in an isolated new home in the countryside, in conflict with paragraph 55. Thus, the proposal does not represent sustainable development having regard to paragraph 7 of the Framework.
23. I recognise that Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows for the conversion agricultural buildings to residential use and that this does, to an extent, point towards Government policy on the re-use of rural buildings. However, Class Q does not apply in National Parks and thus, I afford little weight to it.
24. I conclude, therefore, that the removal of the condition would not result in a satisfactory form of development having regard to the relevant development plan policies and the principles of sustainable development. The proposal, consequently, conflicts with CS Policies 5 and 7, as well as paragraph 55 of the Framework.

### **Other Matters**

25. The appellant has made reference to four cases in the neighbouring local planning authority of Northumberland where the Council has allowed the lifting of holiday accommodation restrictions. However, I have limited detail of those cases and I am unable therefore to determine whether they are reasonable comparisons to the proposal before me here. Nevertheless, it seems to me that, whilst they may have been determined in the same national policy context, they were determined under a different development plan. As such I can afford those examples little weight and, in any event, I have determined this appeal on its own merits.

### **Conclusion**

26. For the reasons given above, and with regard to all other matters raised, I conclude that condition No 4 imposed on planning permission Ref 92/A/387 is necessary and reasonable to prevent the units being occupied as permanent dwellings in conflict with the relevant development plan policies, the Framework and the principles of sustainable development. As a result, the appeal should be dismissed.

*Jason Whitfield*

**INSPECTOR**