



Appeal Decision

Site visit made on 15 January 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2019

Appeal Ref: APP/C9499/W/18/3207533

**Hill Top Barn, Newbiggin-on-Lune from Main Street to the A685,
Newbiggin-on-Lune, CA17 4NB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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 Mr James Richardson against the decision of the Yorkshire Dales National Park Authority.
 - The application Ref E/12/32A, dated 20 April 2018, was refused by notice dated 16 July 2018.
 - The application sought planning permission for conversion of redundant agricultural barn for single residential unit and workshop without complying with a condition attached to planning permission Ref 97/0254, dated 22 May 1997.
 - The condition in dispute is No 2 which states that: The occupation of the dwelling shall be limited to a person or persons who in the opinion of the Local Planning Authority satisfy an identified local housing need, or dependents of such persons residing with him or her, or a widow or widower of such a person.
 - The reason given for the condition is: A dwelling for general occupation would not normally have been permitted in this location.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of redundant agricultural barn for single residential unit and workshop at Hill Top Barn, Newbiggin-on-Lune, Kirkby Stephen, CA17 4NB in accordance with the application Ref: E/12/32A dated 20 April 2018, without compliance with condition No 2, previously imposed on planning permission Ref: 97/0254 dated 22 May 1997 and subject to the following condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking and re-enacting this Order with or without modification), no development other than that expressly authorised by this permission shall take place which would otherwise be permitted under Schedule 2 Part 1 of the Order.

Procedural Matters

2. I am aware that since the application was determined by the Authority, the Eden Local Plan 2014 – 2032 (the Local Plan) has been adopted.

3. The site address given in the banner heading is taken from the original planning application form. For the purposes of my formal decision I have used the address given on the appellant's appeal form in the interests of brevity.

Background and Main Issue

4. Hill Top Barn is a large detached converted barn which is located in the open countryside. Planning permission was granted for the conversion of the barn to a dwelling and workshop in 1997 subject to an occupancy condition.
5. The Authority considers that the condition is relevant, reasonable and necessary in order that the dwelling meets the local need for housing at a price that is affordable for local people in accordance with the Upper Eden Neighbourhood Development Plan 2012 -2025 (UENDP) and the Local Plan.
6. On the basis of the submitted evidence I consider the main issue is whether the condition is precise or reasonable.

Reasons

7. There is a 'note to the applicant' at the end of the 1997 decision notice which sets out categories of need which will be taken into account when assessing demand for affordable housing however, as stated in the Planning Practice Guidance (PPG) informative notes do not carry any legal weight and cannot be used in lieu of planning conditions or a legal obligation to try and ensure adequate means of control for planning purposes.
8. The opinion about whether a person satisfies an identified local housing need rests with the local planning authority however, because of the subjectivity in the absence of a definition of local housing need, the condition is not precise.
9. The Authority cited no policies in their reason for refusal but referred to Policy RUR3 of the Local Plan and Policy 1 of the UENDP in their statement. Policy RUR3 of the Local Plan relates to the re-use of redundant buildings in rural areas for various uses, including housing, and sets out the circumstances under which permission would be granted for such development. It does not exclude open market housing and as such the proposal does not conflict with this policy.
10. Policy 1 of the UENDP states that rural exception sites for single plot affordable housing will be permitted to meet a local need where this is evidenced and where the development does not have an unacceptable impact on the visual and landscape amenity of the area. This relates to both new build dwellings and conversions and the affordable housing for local people will be secured as such for its longevity through a Section 106 agreement. Neither party has provided evidence of local need or otherwise. However, Policy RUR3 of the Local Plan is a more recent policy and as such I attach greater weight to it.
11. Even if I considered some control over occupancy is reasonable and justified, I have no information about what local housing need is and therefore could not amend the condition.
12. For the reasons given above and having regard to advice in the National Planning Policy Framework and the PPG, I conclude that the condition is not precise.

Conditions

13. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. The development is complete and therefore I have omitted the standard time limit condition as this is no longer necessary.
14. The PPG advises that conditions restricting permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Given the location of the dwelling in a National Park, I consider that it is reasonable to remove permitted development rights for external alterations, extensions and curtilage buildings, however, it is not reasonable or necessary to remove all of the permitted development rights in the Town and Country Planning (General Permitted Development) (England) Order, 2015 and for that reason I have modified condition number 1 accordingly.

Conclusion

15. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

Felicity Thompson

INSPECTOR