

High Lowscates Farm, Millom, Cumbria, LA18 5JL
Application for the removal of Condition 3 of permission given under
4/13/2156/0F1 to allow the use of the property as a residential dwelling.

Planning statement for 'The Byre' High Lowscates
Farm, Millom, Cumbria, LA18 5JL
Application for the removal of condition 3 of
4/13/2156/0F1, to allow the use of the property as a
residential dwelling.



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1.0 Introduction

- 1.1 On behalf of our clients, Mark and Dawn Fletcher, we are applying to Copeland Borough Council for the removal of restrictive conditions attached to permissions given for the use of properties at the above location as holiday lets. This statement relates to the property known as The Byre. Two related applications have been submitted alongside this relating to other properties at the same location, with similar restrictive conditions. These properties are known as The Cottage, and The Stables respectively. In all cases, the condition in question limits the use of the property to holiday lets only, and specifically excludes the use of the building as permanent residential.



Photo of The Byre, approved for holiday lets under Planning Application 4/13/2156/0F1

- 1.2 The owner of the properties, Mr. and Mrs. Fletcher, purchased the site in January 2011, at which point it contained a rundown farmhouse and four derelict and disused farm buildings. Planning permission was secured under application 4/13/2156/0F1 for the conversion of the application site building to holiday lets in 2013. Following the implementation of the permission, the property has been in use as a holiday let without break since that time.
- 1.3 The use of the property for holiday lets has proved to be an increasingly onerous prospect, both financially and logistically. The owners do not live on site, and have to arrange for cleaning, servicing and maintenance to be carried out by third party local contractors, and sourcing this support has often proved difficult and/or uneconomic. Consequently, Mr. and Mrs. Fletcher concluded any holiday letting would be better

- managed by someone else living on site who would be able to carry out some of the servicing tasks directly.
- 1.4 The owners are also seeking to step away from holiday let management due to retirement plans, caring responsibilities and health conditions.
 - 1.5 The properties have been marketed for sale as holiday lets. Initially this process started in early 2020, but due to the impact of the Covid-19 Pandemic, the properties were then taken back off the market. Marketing recommenced in January 2022, but to date this has not been successful. It is likely that the restrictive condition limiting use to holiday lets only, limits the interest for prospective purchasers.
 - 1.6 In light of the above, and in particular the lack of interest in the properties being marketed with holiday letting restrictions in place, this application seeks to remove condition 3 of planning permission given under 4/13/2156/0F1 which limits the use of the property to holiday lets. Removing the condition would allow the use of the property for residential use. The case will be made that the condition is not necessary as the conversion to residential use is an acceptable use in this case.

2.0 Legislation, Government Guidance and Planning Policy

2.1 Section 73 of the Town and Country Planning Act (1990) sets out the mechanism for development of land without complying with conditions that were attached to the permission given. The Removal or Variation of a Condition application can be used to remove conditions that have previously been imposed where the condition is not necessary, reasonable, or relevant to the development.

2.2 Paragraph 15 of Circular 11/95: Use of conditions in planning permission advises that *"In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. The argument that a condition will do no harm is no justification for its imposition: as a matter of policy, a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so"*.

National Planning Policy Framework

2.3 Paragraph 56 of the NPPF states that planning conditions should be kept to a minimum and only used where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects.

2.4 Paragraph 79 of the NPPF states that housing should be located where it will enhance or maintain the vitality of rural communities, and that groups of smaller settlements can support services in villages nearby. Paragraph 80 sets out that creation of new dwellings in the countryside is acceptable where they are created through the conversion of redundant rural buildings.

Planning Policy

2.5 The Core Strategy and Development Management Policies (DPD) adopted in December 2013 form the main part of the development plan for the Borough, including specific policies 'saved' from the Copeland Local Plan 2001-2016. Copeland Local Plan 2021-2038 has been submitted for examination (16/9/22), but does not yet form part of the development plan, but does form a material consideration.

2.6 Relevant policies in the Core Strategy and DPD are set out below, with an analysis of compliance with these criteria provided in paragraph 4.9.

- DM15a – Conversion of Rural Buildings to Residential Use
 - Allows for the conversion of rural buildings to residential use according to compliance with 8 sub clauses.
 - a) Applicants can demonstrate that alternative employment or mixed use live-work accommodation or community use is not viable
 - b) Where the subject building is currently or was last used for agriculture, applicants can also demonstrate that there is no alternative site or premises available in the locality within existing settlements

- c) The building is structurally sound and is capable of accepting conversion works without significant rebuilding, modifications or extensions
- d) The building in its existing form is of a traditional construction and appearance and the proposed conversion works conserve the essential character of the building and its surroundings. In this regard existing features of interest and external facing materials should as far as possible be retained
- e) The building is located within or adjacent to a village or existing group of buildings
- f) The building is served by a satisfactory access from the public highway network without the requirement for extensive private roads or tracks and domestic services such as water supply and electricity must be readily available to the site
- g) The conversion works incorporate reasonable standards of amenity
- h) The number of dwellings proposed is appropriate to the scale of adjoining development and will not substantially increase the number of dwellings in the countryside

3.0 Relevant Planning History

- 3.1 The site is currently used as holiday accommodation, which falls within use class C3, although the permission given includes a condition to limit the use of the building to holiday accommodation. Permission was given under:
- 4/13/2156/0F1: Barn at High Lowscales Farm, Millom - Proposed conversion of existing farm structure to holiday let residence. (Property now known as 'The Byre'.)
- 3.2 Two other buildings on the site were also given permission for use as holiday accommodation, including restrictive conditions as with this site. These are:
- 4/15/2109/0F1: High Lowscales Farm, Millom - Convert Barn/Ex-Cottage to Holiday Let Property (Property now known as 'The Cottage'.)
 - 4/16/2173/0F1: High Lowscales Farm – Change of use from gymnasium and games room to residential holiday let (Property now knows as 'The Stables'.)
- 3.3 Previous planning history at the site relates to changes of use that have been superseded by the permissions given above.
- 3.4 A fourth building on the site, now known as 'The Barn', has been converted into dwellings through a Prior Approval application.
- 4/17/2117: Confirmation that prior approval is not required for the change of use of an agricultural building to 3 dwellings (under the provisions of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015)
- 3.5 Previously, permission had been given for The Barn, under planning reference 4/14/2078, to also convert these buildings to holiday lets, but that permission was never implemented.

4.0 Proposed Development and Planning Assessment

- 4.1 This application requests the removal of the planning condition that restricts use of the property to holiday lets. The owner of the properties has struggled to manage the properties for holiday accommodation as they do not live in the area and the available options for management being undertaken by others are limited and consequently can sometimes be prohibitively expensive.
- 4.2 It is anticipated that the costs of running holiday lets will be increasing in the near future with spikes in energy costs impacting on profitability of holiday rentals, as the owners are not able to pass on all the additional costs to holiday guests. In addition, for a variety of personal reasons related to age, health and caring duties, the owner is seeking to divest themselves of the properties, with no success to date.
- 4.3 The owner has been trying to sell the properties as holiday lets. Marketing first began in early 2020, just before the pandemic, which had an obvious impact on the ability to market the property, and on the potential market itself. Marketing recommenced in January 2022, but there has been no success in selling it as a holiday let.
- 4.4 A letter from the estate agent responsible for marketing confirms that there has been some interest in the property as a result of the marketing that has taken place this year, but that the issue of the restrictive condition has resulted impacted on the view of the property from prospective purchasers, and consequently the property has not been sold.
- 4.5 Continued use of the property as holiday lets is not possible for the current owners to maintain, and they are unable to sell it with its current planning restrictions.
- 4.6 It is therefore proposed that the restrictive condition, should be removed, allowing the property to be marketed as residential accommodation for local residents.
- *"Condition 3: The unit hereby permitted shall be used solely for the provision of holiday accommodation and shall not be occupied as permanent residential accommodation. Reason: For the avoidance of doubt."*

Planning Assessment

- 4.7 Policy ST2 of the Copeland Borough Council Local Plan 2013-2018 states that development outside the defined settlement boundaries is restricted, other than in cases where there is a proven requirement for such a location, including in part C vi) of the policy "Housing that meets proven specific and local needs including [...] the conversion of rural buildings to residential use.
- 4.8 The proposal to remove condition 3 of planning application 4/13/2156/0F1 is consistent with this policy. The retention of condition 3 for this site is unnecessary as the use of the property as residential accommodation is an acceptable use of the buildings, having regard to local and national policy, as set out elsewhere in this statement.

- 4.9 Policy DM15a of the Copeland Borough Council Local Plan 2013-2018 states that conversion of a building to residential use in rural areas will be permitted where certain criteria are met.
- Clause A requires that applicants demonstrate alternative employment of mixed use live-work accommodation or community use is not viable. The site has been permitted to change use from a farm structure to a use within use class C3 (albeit with a restriction limiting it to holiday lets). During the consideration of that application, the possibility of alternative employment of mixed use live work was not considered of significance sufficient to refuse the application. The employment generating value of holiday lets compared to residential dwellings will be equivalent, although of a different character due to the different businesses that would be interacted with.
 - Clause B is not relevant
 - Clause C requires that the building is structurally sound and can be readily converted. This requirement is met.
 - Clause D is met as no external alterations would be required
 - Clause E is met as the site is located adjacent to other buildings, including four other residential dwellings at High Lowscales, namely High Lowscales Farm and 'Aina', 'Piena' and 'Para' at High Lowscales Barn. There are also three other residential dwellings at Lowscales Farm, Greenhills and Longfield View, on the next farm.
 - Clause F is met as no significant impact on the highways network would be experienced, and the site is already suitably served with necessary utilities.
 - Clause G is met, as the site has a suitable standard of amenity.
 - Clause H is met as the proposed removal of the restrictive condition does not functionally alter the number of dwellings in the countryside, as it already falls within use class C3
- 4.10 The use of the building as use class C3 has been accepted. Condition 3 limits the use of the building to a specific aspect of the range of uses that fall within this use class., and removes the opportunity to use the building in a way that would otherwise be permitted under the stipulations of the Use Class Order. Paragraph 54 of the NPPF sets out that conditions should not be used to restrict permitted development rights without a clear justification for why this is necessary. No such justification is established in the permission given, and the imposition of condition 3 does not provide the rationale. On the contrary, as the address at which this property is located currently contains other residential properties, it is demonstrably the case that residential uses are suitable in this area, and that the restrictive condition is not justified.
- 4.11 As set out in paragraph 56 of the NPPF, conditions should only be applied where they satisfy the 'six tests'. It is our contention that the condition does not meet this standard. It is not necessary as demonstrated by the existence of other residential properties in the area, and the absence of a clear justification of the need for the condition to be applied. The restriction applied by the condition is not consistent with

the advice set out in paragraph 80 of the NPPF. As a consequence of this, and in the context of the restrictive condition impacting on the marketability of the property, it is considered also that the condition is also not reasonable or necessary.

- 4.12 The removal of this condition would allow for the use of, or marketing of the building as a residential dwelling. Paragraph 79 of the NPPF sets out a view that groups of buildings in smaller settlements can support the viability of local villages. Allowing the use of this property as residential would increase the use of local centres as there would be fewer void periods, and consequently an increased use of local facilities offered by villages, and indeed with a settled rather than transitory population, the range of local business engaged is likely to increase.
- 4.13 Paragraph 80 of the NPPF allows for the conversion of existing buildings to residential use. As set out above, the restrictive condition does not satisfy the tests for applying conditions, while removing the ability to use the property in a way that is consistent with other parts of the guidance available in the NPPF.

5.0 Summary

- 5.1 The use of the site as a residential dwelling is consistent with the current use class, and in character with the use of other buildings in the area, which includes existing residential dwellings. There would be no material impacts to the area in terms of use, highways or amenity set out above.
- 5.2 The removal of the condition, and the use or marketing of the building as residential would be in line with the policies set out on the Copeland Borough Council Local Plan 2013-2108, as all relevant criteria from the policies that apply to this case have been shown to be satisfied.
- 5.3 The NPPF is clear in how conditions on planning permissions should be applied, and the limits on the types of restrictions that are considered suitable to be applied by this means. The analysis set out above clearly shows that the current condition does not meet the criteria set out in the relevant sections of the NPPF.
- 5.4 The current use of the site is increasingly unviable in business terms, and attempts at marketing have been unsuccessful due to the restrictive condition that this application is seeking to remove.
- 5.5 It has been demonstrated that the restrictive condition 3 in the permission given under 4/13/2156/0F1 does not comply with the requirements for planning conditions, is not justified in planning terms, and restricts otherwise lawful activities that are required for ongoing future viability of the site.
- 5.6 Consequently, we request that this application be approved and condition 3 of 4/13/2156/0F1 be removed.